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COMPETITION IN FEDERAL PROCUREMENT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON GENERAL OVERSIGHT AND THE ECONOMY

OF THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

WASHINGTON, D.C., OCTOBER 5 AND 6, 1983

Printed for the use of the Committee on Small Business

U.S. GOVERNMENT PRINTING OFFICE
33-881 O WASHINGTON : 1984

H721-27

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CONTENTS

Page

Hearings held on:
- October 5, 1983 1
- October 6, 1983 123

Opening statements of:
- Addabbo, Hon. Joseph P., a Representative in Congress from the State of New York 3, 124
- Bedell, Hon. Berkley, chairman, Subcommittee on General Oversight and the Economy 1, 123
- Bilirakis, Hon. Michael, a Representative in Congress from the State of Florida 3, 125
- Boehlert, Hon. Sherwood L., a Representative in Congress from the State of New York 126
- Britt, Hon. C. Robin, a Representative in Congress from the State of North Carolina 125
- Ireland, Hon. Andy, a Representative in Congress from the State of Florida 126
- Olin, Hon. James R., a Representative in Congress from the State of Virginia 4
- Ray, Hon. Richard, a Representative in Congress from the State of Georgia 125
- Schaefer, Hon. Dan, a Representative in Congress from the State of Colorado 125

Testimony of:
- Amlie, Thomas S., Assistant for Technical Systems, Office of the Assistant Secretary for Financial Management, U.S. Air Force, Department of Defense 131
- Boxer, Hon. Barbara, a Representative in Congress from the State of California 5
- Connolly, Maj. Gen. Joseph H., Deputy Director for Acquisition Management, Defense Logistics Agency, DOD, accompanied by Brigadier General Skeen, Commander, Defense Industrial Supply Center, DOD 213
- Engfer, Charles W., vice president, Lynmar Sales, Inc 72
- Forman, Wallace, chairman, Gibralter Industries, Inc., on behalf of Business Executives for Equitable Procurement 103
- Gilleece, Mary Ann, Deputy Under Secretary of Defense for Research and Engineering (Acquisition Management), Department of Defense, accompanied by Harvey Gordon, Assistant Deputy Under Secretary for Acquisition, and Norma Leftwich, Director, Small and Disadvantaged Business Utilization, DOD 149
- Grassley, Hon. Charles E., a Senator in Congress from the State of Iowa ... 30
- Haugh, Leroy J., Associate Administrator for Policy Development, Office of Federal Procurement Policy, Executive Office of the President, accompanied by Owen Birnbaum, Deputy Associate Administrator 249
- Kemp, Ira L., Associate Director of Contracting and Manufacturing, Directorate of Contracting and Manufacturing Policy, U.S. Air Force, DOD, accompanied by Don Rellins, Director of Small and Disadvantaged Business Utilization, USAF, DOD 204
- Miller, Frank G., SBA Breakout Procurement Center Representative, Tinker Air Force Base 86
- Mitchell, Hon. Parren J., a Representative in Congress from the State of Maryland, and chairman, Committee on Small Business 18
- Otero, Richard J., president, RJO Enterprises, Inc 70

Testimony of—Continued

Page

Rankin, Thomas R., president, G.K.S., Inc., and on behalf of Small Business United, as a trustee of National Small Business Contractors Association, and as a trustee of the Cleveland Government Contractors Sales Program 24
Sanders, James C., Administrator, U.S. Small Business Administration, accompanied by Robert F. McDermott, Assistant Administrator for Procurement Assistance, SBA 52
Sansone, Rear Adm. Joseph S., Jr., Deputy Chief of Navy Materiel (Contracts and Business Management, Department of the Navy, DOD 198
Seidman, Paul J., special counsel for procurement policy issues, National Tooling & Machining Association 115
Solomon, Maj. Gen. Robert B., Deputy Inspector General for Investigations, Assistance, Training, and Information Management, Department of the Army, DOD 185
Stallings, Maj. Gen. David W., Director of Procurement and Production, U.S. Army Materiel Development and Readiness Command, Department of the Army, DOD 196
Swain, Frank S., Chief Counsel for Advocacy, U.S. Small Business Administration 54
Vander Schaaf, Derek J., Deputy Inspector General, Department of Defense 181
Weiss, Stanley A., president, Business Executives for National Security, Inc 97
Williams, Jon, president, Association of Southwest Government Contractors 34

Additional material supplied for the hearing record:

Amlie, Thomas S., Assistant for Technical Systems, Office of the Assistant Secretary for Financial Management, U.S. Air Force, Department of Defense 137
Boxer, Hon. Barbara, a Representative in Congress from the State of California:
  "Pentagon, in Year-End Rush, Spends Billions," article, New York Times, Oct. 2, 1983 15
  Prepared statement 8
Connolly, Maj. Gen. Joseph H., Deputy Director for Acquisition Management, Defense Logistics Agency, DOD: Prepared statement 216
Engfer, Charles W., vice president, Lynmar Sales, Inc.: Prepared statement 75
Forman, Wallace, chairman, Gibralter Industries, Inc., on behalf of Business Executives for Equitable Procurement: Prepared statement 105
Gilleece, Mary Ann, Deputy Under Secretary of Defense for Research and Engineering (Acquisition Management) Department of Defense: Prepared statement 157
Kemp, Ira L., Associate Director of Contracting and Manufacturing, Directorate of Contracting and Manufacturing Policy, U.S. Air Force: Prepared statement 206
Mitchell, Hon. Parren J., a Representative in Congress from the State of Maryland and chairman, Committee on Small Business: Prepared statement 20
Rankin, Thomas R., president, G.K.S., Inc., and on behalf of Small Business United, as a trustee of National Small Business Contractors Association, and as a trustee of the Cleveland Government Contractors Sales Program: Prepared statement 28
Sanders, James C., Administrator, U.S. Small Business Administration: Prepared statement 53
Sansone, Rear Adm. Joseph S., Jr., Deputy Chief of Navy Materiel (Contracts and Business Management), Department of the Navy, DOD: Prepared statement 199
Seidman, Paul J., special counsel for procurement policy issues, National Tooling & Machining Association: Prepared statement 119
Sowle, Donald E., Administrator for Federal Procurement Policy, Executive Office of the President: Prepared statement 253
Stallings, Maj. Gen. David W., Director of Procurement and Production, U.S. Army Materiel Development and Readiness Command, Department of the Army, DOD: Prepared statement 197
Swain, Frank S., Chief Counsel for Advocacy, U.S. Small Business Administration: Prepared statement 57

Additional material supplied for the hearing record—Continued | Page
- Weiss, Stanley A., president, Business Executives for National Security, Inc.: Prepared statement 98
- Williams, Jon, president, Association of Southwest Government Contractors: Prepared statement 40

APPENDIXES

Appendix A.—Additional material submitted for the record by Jon Williams, president, Association of Southwest Government Contractors 269
Appendix B.—Additional material submitted for the record by Paul J. Seidman, special counsel for procurement policy issues, National Tooling & Machining Association 291
Appendix C.—Additional material submitted for the record by Rear Adm. Joseph S. Sansone, Jr., Deputy Chief of Navy Material (Contracts and Business Management), Department of the Navy, DOD 305
Appendix D.—Additional statements submitted for the record 348

COMPETITION IN FEDERAL PROCUREMENT

WEDNESDAY, OCTOBER 5, 1983

House of Representatives,
Subcommittee on General Oversight
and the Economy,
Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 2359-A, Rayburn House Office Building, Hon. Berkley Bedell presiding.

OPENING STATEMENT OF CHAIRMAN BEDELL

Mr. **Bedell**. The subcommittee will come to order.

The Chair has a few announcements that I should make.

There is a joint session of Congress this morning. We have checked with the Parliamentarian, and it is perfectly proper for us to continue with these hearings during that period.

It is the Chair's intention to go ahead because we have our witnesses all in here, and we have had this scheduled for some time. Some of the members may feel that they should be over at that joint session, and under those circumstances our committee may not be quite as full.

I should also announce that in the past, on this committee, we have always sworn in our witnesses. The Chair has been remiss in not doing that, so far this session. Except for Members of Congress, we will institute that practice here today.

This morning the Small Business Committee's Subcommittee on General Oversight and the Economy begins 2 days of hearings on legislative proposals to inject a much needed dose of competition into Federal procurement practices.

The oversight subcommittee has before it three very thoughtful legislative proposals directed at Federal procurement practices: H.R. 2130, introduced by Congressman Mavroules, seeks to expand small business access to Federal procurement data; H.R. 3784, introduced by Congressman Boxer, who is here with us today, seeks to encourage Federal employees to consider ways to cut Federal procurement costs; and finally the oversight subcommittee will consider at these hearings H.R. 2133, introduced by our full committee chairman, Mr. Mitchell, and our colleague on the subcommittee, Mr. Addabbo.

H.R. 2133 is a comprehensive bill, directed at several important Federal procurement procedures. It is the oversight subcommittee's intention to consider these three bills and other suggestions raised by our witnesses to increase competition and small business participation in Federal procurement. It is very clear that the American taxpayer is being shortchanged by the appalling lack of open competition in the hundreds of billions of dollars of goods and services that the Federal Government purchases annually.

One agency, the Department of Defense, is responsible for almost three-quarters of these purchases. Yet less than 7 percent of the DOD's procurement activity is done through honest-to-goodness open competition; this is clearly an outrage.

Our Federal budget is already overtaxed by our Nation's overwhelming commitment to an unprecedented military buildup.

Yet, news report after news report has focused on cost overruns on major weapons systems, gross overpayments for military goods and services, and restrictive procurement practices that discourage low-cost competition on standard purchase items.

I, for one, after studying our problems in this area, do not have confidence that we are spending our military procurement dollar wisely. I firmly believe that we are wasting billions of dollars every year on unjustifiable purchases because of a military procurement system that seeks to eliminate competition, not enhance it. The American taxpayer is getting fed up with the system and is demanding a change.

Today and tomorrow, the oversight subcommittee will examine legislative proposals to promote increased competition in Federal procurements and remove the obstacles faced by small firms wishing to do business with the Federal Government. Today we will hear from small business people, representatives of the Small Business Administration, and trade associations.

Tomorrow the subcommittee will hear from 10 witnesses from the Department of Defense and a representative of the Office of Management and Budget.

I view these hearings as an educational process for both the subcommittee and the public. I believe we will all be amazed and enlightened by the testimony of many of our witnesses.

Some of them are truly courageous individuals, swimming against the tide and violating the unwritten rules of their trade by talking with us today and tomorrow. To these individuals, all Americans are deeply indebted.

Before I call on our first witness, I would like to read a quote I came across the other day.

It reads as follows:

> The identification of a threat to security does not automatically require an expenditure in the defense budget to neutralize it. The Nation's total resources being limited, it is necessary to consider what is being given up to meet the threat. Some may feel it more important to invest money in education or health than to provide against what they consider remote contingencies in the national security field. The defense budget, in short, must be seen not only in terms of what we must defend ourselves against but what we have to defend. The more we take from the common wealth for its defense, the smaller it becomes.

Those words were spoken by Caspar Weinberger, our Secretary of Defense, on October 17, 1972, almost 11 years ago.

Mr. Britt, do you have an opening statement?

Before you do, I should announce that Congressman Britt has been very helpful in these hearings, in helping us with witnesses.

It is my further understanding they are planning a field hearing in your district as well.

Mr. **Britt**. I have no statement, Mr. Chairman. Thank you.

Mr. **Bedell**. Mr. Addabbo.

Mr. **Addabbo**. Yes, thank you, Mr. Chairman.

OPENING STATEMENT OF HON. JOSEPH P. ADDABBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. **Addabbo**. I commend you for holding these hearings on these most important bills, intended to correct some of the most blatant deficiencies existing within our Federal procurement system today.

With procurement dollars in excess of $150 billion annually, the present procurement policies have operated substantially to wipe out small businesses from the Federal procurement system. These policies have done nothing but promote the interests of the large business concerns to the extent that they are beginning to monopolize the system.

My interest in these hearings is actually twofold. First, as chairman of the Subcommittee on Defense Appropriations, I have reason for concern when I read about noncompetitive practices such as "sole-sourcing" that result in DOD paying exorbitant prices for parts that can in some cases be purchased for a dollar.

As a member of this subcommittee my second concern is to increase small business participation in the performance of Federal contracts.

I have always advocated and insisted that more contracts be awarded pursuant to the formally advertised method of procurement. This method not only insures lower prices paid for goods and services but it also provides a more equitable opportunity for small and minority businesses to compete for Federal contracts.

As it stands now, approximately 93 percent of all DOD contracts are negotiated and sole-sourced rather than awarded under sealed bid procedures. Moreover, although small businesses represent 98 percent of the business community, they receive only about 17 percent of Federal purchases. Minority businesses receive a mere 2.2 percent of the total Federal contract awards and labor surplus area firms receive less than 1 percent under the LSA set-aside program.

It is apparent that a most vital segment of our economy is not receiving its fair proportion. I am optimistic that these hearings will be not only informative, but will also provide some solutions to the problems of waste and abuse prevalent in the existing procurement system. Thank you, Mr. Chairman.

Mr. **Bedell**. Thank you, Mr. Addabbo.

Mr. Bilirakis.

OPENING STATEMENT OF HON. MICHAEL BILIRAKIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. **Bilirakis**. Thank you, Mr. Chairman.

I, too, am pleased that our subcommittee will be addressing the procurement of spare parts by the Department of Defense, and the overall procurement practices of the Government as they affect small business in particular.

I have no doubt that we have all been shocked by allegations of significant overcharges, which affect the pocketbooks of all Americans. We are all in agreement that these abuses must be halted.

The Federal Treasury simply cannot afford waste, Mr. Chairman, not when we are trying to stretch our scarce resources to provide for the needs of the elderly, unemployed, and poor, not to mention finding solutions to our deficit.

I feel this administration is committed to cutting out waste and fraud in all Federal programs, and I believe that the Secretary of Defense in his July memo to the Secretaries of the Military Departments outlining his 10-point policy on spare parts procurement is taking steps in the right direction.

However, it is incumbent upon this subcommittee to undertake a broader examination of the involvement of the small business community, which is our chief concern in all Federal procurement programs. We must insure that the small business community has a free and fair opportunity to participate in Federal contracts. It has been shown time and time again that competition for these contracts produces a reduction in cost to the Federal Government.

When companies of all sizes are given an equal opportunity to compete for Government contracts, the overall costs of such contracts to the Government is diminished.

However, at the present time, as you know small business only receives approximately 17 percent of all Federal contracts. Therefore, I believe, we must examine whether this minimum participation by small business is indicative of a lack of competition in Government contracting generally.

A free and fair procurement system must allow for participation by all qualified bidders. This can only benefit the entire Nation.

Thank you, Mr. Chairman.

Mr. **Bedell**. Thank you, Mr. Bilirakis.

Mr. Olin.

OPENING STATEMENT OF HON. JAMES R. OLIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. **Olin**. Thank you, Mr. Chairman.

As a cosponsor of both H.R. 2133 and H.R. 3784, I want to thank you for the attention you are giving to this very important legislation.

Since coming to Congress, I have worked very hard to cut spending and eliminate waste from the Federal budget. I have had to make some very tough decisions about cutting back on some worthwhile programs, and activities. It is especially distressing to me to hear of the widely extravagant prices the Department of Defense is paying for some very modest spare parts.

This unchecked spending hurts us in several ways. First, it puts a totally unnecessary drain on the Federal budget, at a time when we are facing a $200 billion deficit.

Second, it undermines public confidence on how the Defense Department is spending taxpayers' money, and perpetuates the image of wasteful and irresponsible bureaucracy.

Third, it makes us wonder just where else the Pentagon is wasting money. It makes it hard to know just how much DOD is increasing budget requests is justifiable.

Finally, as we discussed today, the procurement policies that lead to these inflated costs also exclude competent, competitive small firms from doing business with the Government.

This is a disservice to the Government, these small businesses, and taxpayers who deserve to get "the best bang for their buck."

The small businessmen and women in my district are independent, hard-working entrepreneurs who aren't looking for any special favors. They ask only for a chance to compete fairly, but with over 90 percent of all military procurement contracts removed from open bidding, what chance is there for small firms to compete?

Other barriers to competition, such as qualified bidders' lists, only impose further restrictions on small business opportunities.

Mr. Chairman, I want to commend Chairman Mitchell, Mr. Addabbo, and Mrs. Boxer for introducing legislation to correct these inequities and foster small business procurement opportunities.

I look forward to participating in these hearings.

Mr. **Bedell**. Thank you, Mr. Olin.

Mr. Sisisky?

Mr. **Sisisky**. No statement.

Mr. **Bedell**. Mr. Ireland?

Mr. **Ireland**. No statement, Mr. Chairman.

Mr. **Bedell**. Mr. Ray?

Mr. **Ray**. No statement.

Mr. **Bedell**. Mr. Boehlert?

Mr. **Boehlert**. No statement, Mr. Chairman.

Mr. **Bedell**. Our first scheduled witness was Senator Charles Grassley from Iowa. I don't see him.

Is Senator Grassley here?

[No response.]

Mr. **Bedell**. If not, we will proceed with Congresswoman Boxer of California, and we appreciate very much your being here, Barbara.

TESTIMONY OF HON. BARBARA BOXER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. **Boxer**. Thank you, Mr. Chairman, for holding these hearings. I think they are very important.

At this point, I would just ask if a staff member, Bernie, could just have this passed along. I think it graphically shows what many of you have already said here this morning.

Mr. **Bedell**. If I might, why don't we play a little game.

Congresswoman Boxer has told me what that part costs. Why don't we see who among the committee members can guess the closest to what that part costs.

Mr. **Olin**. What it cost to make it, or what it cost to buy it?

Mr. **Bedell**. Let's do both—what we think it would cost to make, and what we guess the Government is paying for it.

Mr. **Ireland**. Mr. Chairman, if you hear the way things are going around here, anything under $5,000 is——

Mrs. **Boxer**. Well, I think it is important to note that this is a noncritical part of an aircraft. It is merely a bracket that holds a cable. So keep that in mind.

Mr. **Bedell**. Please ahead with your testimony. We'll inspect the part and see how good we are at estimating.

Mrs. **Boxer**. As long as you are playing the game, nobody is going to listen, but maybe that actually says it all.

Mr. **Bedell**. OK.

Mrs. **Boxer**. Mr. Chairman. The bill that I have proposed with a number of my colleagues H.R. 3784—I think we are up in the sixties now—deals with one of the most scandalous issues of our time, waste in the Defense Department, and at a time when as many of you have pointed out, we are cutting back on nutrition programs for our children and our elderly, and at a time that we have a soaring deficit. This is not the time to be spending $16,000 on a turbine rim that should cost $6,000; or $400 on a plastic knob that should cost $5; or $110 on a diode that should cost 4 cents.

Now I am about to tell you what that part cost.

Mr. **Bedell**. Wait a little bit, will you? Let the Republicans guess. [Laughter.]

Mrs. **Boxer**. The question is, how do we correct this situation? I think the answer, which many of you have alluded to this morning is good old-fashioned competition.

We need to open the procurement of spare parts to competition, with quality control.

H.R. 3784 does this by building on a method already being used in 20 percent of procurements, namely by adding more qualified personnel to major procurement centers, and using incentives of not more than 1 percent of savings.

It is a simple way, and I think it is going to work for small businesses of Americans.

Are we ready to finish this contest?

Mr. **Bedell**. Oh, no. The Republicans are rather slow in figuring it. You go ahead.

Mrs. **Boxer**. All right, then let me show you another spare part that I happened to bring along here this morning. This is a turbine ring for a Pratt & Whitney 30-jet engine, and when this part was originally ordered in 1972, the unit price was $3,256. The price increased substantially over the years until 1982, when the Pratt & Whitney's basic ordering agreement price was $16,811. Indeed there was inflation in that time, but even if you add in the enormous inflation of 131 percent over that period, it would have come to $10,156. It was, in fact, $16,811.

Now this ring is a classic example of the rampant fiscal indifference shown on the part of our Government and the evident lack of cost control in spare parts agreements with prime contractors. The media have been filled with other examples. I think you know some of these: a claw hammer that costs over $400, and a $5 plastic knob that cost over $440. I will talk later about the diode, which I mentioned before.

We currently have administration requests for a defense budget that could total $1.5 trillion over 5 years. I am not here today to argue the merits or the demerits of those requests. I am here today to suggest how to lower our costs and help small business at the same time.

The price history of this ring I have here is exactly the problem that H.R. 3784 is designed to prevent. From 1972 until 1981 this part was only purchased from that prime contractor, and the price soared.

In the fall of 1981, an engineer from Tinker Air Force Base challenged this sole source policy and pressed to have the ring broken out into a competitive situation by awarding the contract to the lowest qualified bidder.

This engineer met with expected resistance from Pratt & Whitney. He also met not so expected resistance from various management levels of Tinker itself. Tinker is a procurement center that is under mandate to find ways to decrease spare parts costs, and yet even they resisted a qualified engineer's judgment that this part should be competitively bid.

However, the engineer persisted; the part was broken out; and the contract was awarded to a small business, Electro-Methods. They made the parts and charged the Government $6,310 each in October 1982. So by breaking out one part to competition, the Government saved $1.5 million in 1 year on one part.

Some 80 percent of all spare parts purchased are purchased through a sole source. Usually we purchase from the manufacturer of the original system. The prime contractors consistently claimed that their prices reflect an honest appraisal of costs incurred. In their letter to the Secretary of the Navy, the Sperry Corp. claimed a legitimate right to charge $110 for a 4-cent diode since that price included their labor, costs, inflation, and overhead.

I do not dispute Sperry. In fact, I believe they are being very accurate. They needed to charge $110. What I do dispute is the policy of solely awarding contracts to the manufacturer regardless of what their costs are. They are not the only game in town, and we as the Government representing the people, must not be a captive of a prime constructor's overhead costs.

My purpose here today is to say that we can introduce competition into the area of spare parts and find companies that have lower overhead, lower fixed structural costs, and who are capable of good quality production with short leadtime for deliveries.

The story of this ring clearly shows that H.R. 3784—and other bills that I know you will be hearing—address the problem of spare parts procurement in many needed areas.

This legislation proposes to increase the number of engineers who would evaluate and recommend spare parts to be broken out into competition. While there is currently one engineer working with each Small Business Administration Procurement Center representative, we suggest four such engineers, and our approximate figures are that would mean 60 more engineers overall.

They would be able to process more purchase orders and challenge overly restrictive parts classification enabling more parts to be broken out. My legislation also requires that a SBA Procurement Center representative be present in all major procurement centers.

We estimate that number would be between 12 and 20.

With the increase in SBA personnel and increased technical engineering advisers, the savings achieved with this one jet engine part could be expanded. We estimate that the percentage of parts broken out for competitive bids would increase from 20 percent, which it now is, to over 60 percent.

The $1.5 million saved in this case I just mentioned here could be multiplied many times so that the possibility of reducing the spare parts budget by billions of dollars becomes a reality. One estimate, based on an SBA study and a GAO report—this is not my number; it is their number, is that this proposal could save $4 billion annually.

In order to increase job motivation, the bill calls for financial incentives for employees at procurement centers which achieve the greatest cost savings. The incentives would not exceed 1 percent of savings, calculated on a quarterly basis. If a buyer, or engineer, or procurement center representative knows that he or she will be rewarded for challenging sole source procurement, this employee will be much more inclined to increase the number of parts broken out. Mr. Chairman, I might add, as we have done our research, we have found that employees who want to do this in the past have been scolded, have been frustrated, and sometimes even been fired.

Finally, I would like to mention another significant benefit of this legislation that concerns your subcommittee. The major recipients of this new competition will be small business because small business is extremely competitive. The result will be a broadening of the industrial base, generation of new tax revenues, new employment, and quality parts in a shorter period of time.

The situation today, Mr. Chairman, is intolerable. We must take the oversight responsibility that has been given to us by the American people and guarantee that when we spend their dollars we spend them wisely.

H.R. 3784 and the other bills before you will increase our ability to pick the best and the lowest bid with technical people who will have incentives so that the saga of the jet engine parts, plastic knobs, and the diode stops here today and need not ever be recounted again. So for approximately $3 million in personnel costs, we may realize up to $4 billion in savings per year.

I want to thank the committee for its time. I want to call your attention to a little chart we have on the back of my testimony. The last two pages show samples of what has happened to cost when this breakout procedure is used. Sample part 1 is a baffle for an F-111. Before the breakout, the parts were $3,577 each. After the breakout, 1982, $1,127; and the other sample part, which is a seal, cost $2,000 before breakout, $476 after breakout. So, I think, Mr. Chairman, that this isn't something that anyone is dreaming up; this is already happening. Now I want to tell you the cost of that part—if you will let me—you have been passing around.

[Congresswoman Boxer's prepared statement with attachments follows:]

PREPARED STATEMENT OF HON. BARBARA BOXER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, I would like to speak this morning in favor of H.R. 3784, legislation aimed at bringing sanity back into defense spare parts procurement.

I have here with me this morning one turbine ring for a Pratt and Whitney TF-30 jet engine. When this part was originally ordered in 1972, the unit price was $3,256. The price increased substantially over the years until 1982 when the Pratt and Whitney Basic Ordering Agreement price was $16,811. It didn't have to be—as I will explain in a minute.

This ring is a classic example of the rampant fiscal indifference shown on the part of our government and the evident lack of cost control in spare-part agreements with prime contractors. The media have been filled with other examples such as a claw hammer that costs over $400, and $5 plastic knobs that cost $440, and a diode I will mention later.

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The price history of this ring I have here is exactly the problem that H.R. 3784 is designed to prevent. From 1972 until 1981 this part was only purchased from Pratt and Whitney and the price soared. In the fall of 1981, an Engineer from Tinker Air Force Base challenged this sole source policy and pressed to have the ring broken-out into a competitive situation by awarding the contract to the lowest "qualified bidder". He met with expected resistance from Pratt and Whitney. He also met not so expected resistance from various management levels of Tinker itself. Tinker is a procurement center that is under mandate to find ways to decrease spare parts costs and yet even they resisted a qualified engineer's judgment that this part should be competitively bid.

The engineer persisted, the part was broken out, and the contract awarded to Electro-Methods, Inc. They made the parts and charged the government $6,310 each in October of 1982. By breaking this part out into competition the government saved $1.5 million in one year on one part.

Some 80 percent of all spare parts purchased are purchased through a sole source. Usually we purchase from the manufacturer of the original system. The prime contractors consistently claimed that their prices reflect an honest appraisal of costs incurred.

In their letter to the Secretary of the Navy, the Sperry Corporation claimed a legitimate right to charge $110 for a four cent diode since that price included their labor, costs inflation and overhead. I do not dispute Sperry. In fact, I believe they are being very accurate. They needed to charge $110. What I do dispute is the policy of solely awarding contracts to the manufacturer regardless of what it costs. They are not the only game in town, and we as the government, representing the people, must not be a captive of a prime constructor's overhead costs.

My purpose here today is to say that we can introduce competition into the area of spare parts and find companies that have lower overhead, lower fixed structural costs and who are capable of good quality production with short lead-time for deliveries.

The story of this ring clearly shows that H.R. 3784 addresses the problem of spare parts procurement in many needed areas.

This legislation proposes to increase the number of engineers who would evaluate and recommend spare parts to be broken out into competition. While there is currently one engineer working with each SBA procurement center representative, we suggest four such engineers. They would be able to process more purchase orders and challenge overly restrictive parts classification enabling more parts to be broken out.

This legislation also requires that a Small Business administration procurement center representative be present in all major procurement centers. This is not the situation now.

With the increase in SBA personnel and increased technical engineering advisors, the savings achieved with this one jet engine part could be expanded. We estimate that the percentage of parts broken out for competitive bids would increase from from 20 percent to over 60 percent.

The $1.5 million saved in the case I just mentioned here could be multiplied many times so that the possibility of reducing the spare parts budget by billions of dollars becomes a reality. One estimate, based on an SBA study and General Accounting Office reports, is that this proposal could save $4 billion annually.

In order to increase job motivation, the bill calls for financial incentives for employees at procurement centers which achieve the greatest cost savings. The incentives would not exceed one percent of savings, calculated on a quarterly basis.

If a buyer or engineer, or procurement center representative, knows that he or she will be rewarded, challenging sole source procurement, this employee will be much more inclined to increase the number of parts broken out.

Finally, I would like to mention another significant benefit of this legislation. The significant recipients of this new competition will be small business because small business is extremely competitive. The result will be a broadening of the industrial base, generation of new tax revenues, new employment and quality parts in a shorter period of time.

The situation today is intolerable. We must take the oversight responsibility that has been given to us by the American people and guarantee that when we spend their dollars we spend them wisely.

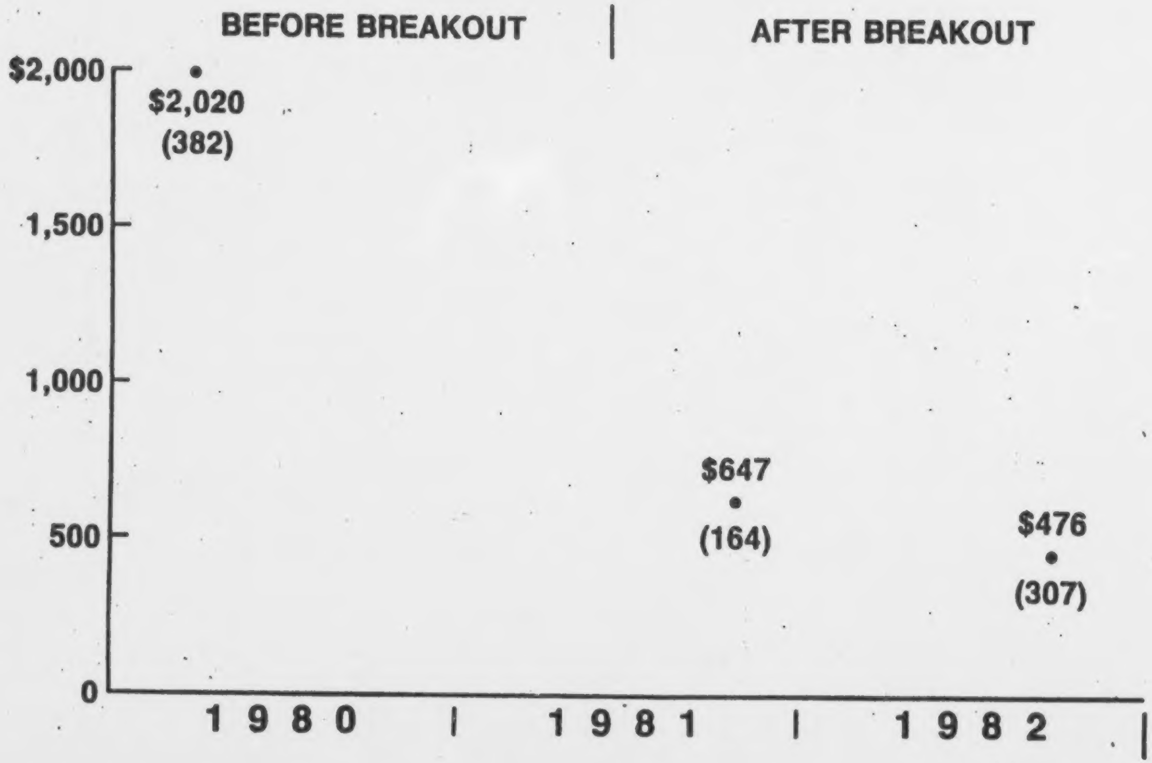
H.R. 3784 increases our ability to pick the best and lowest bid with technical people who will have incentives so that the saga of the jet engine and stool knobs and diodes stops here today and need not ever be recounted again.

I thank the committee for its time and for holding hearings to address a problem long in need of examination.

Attachment III

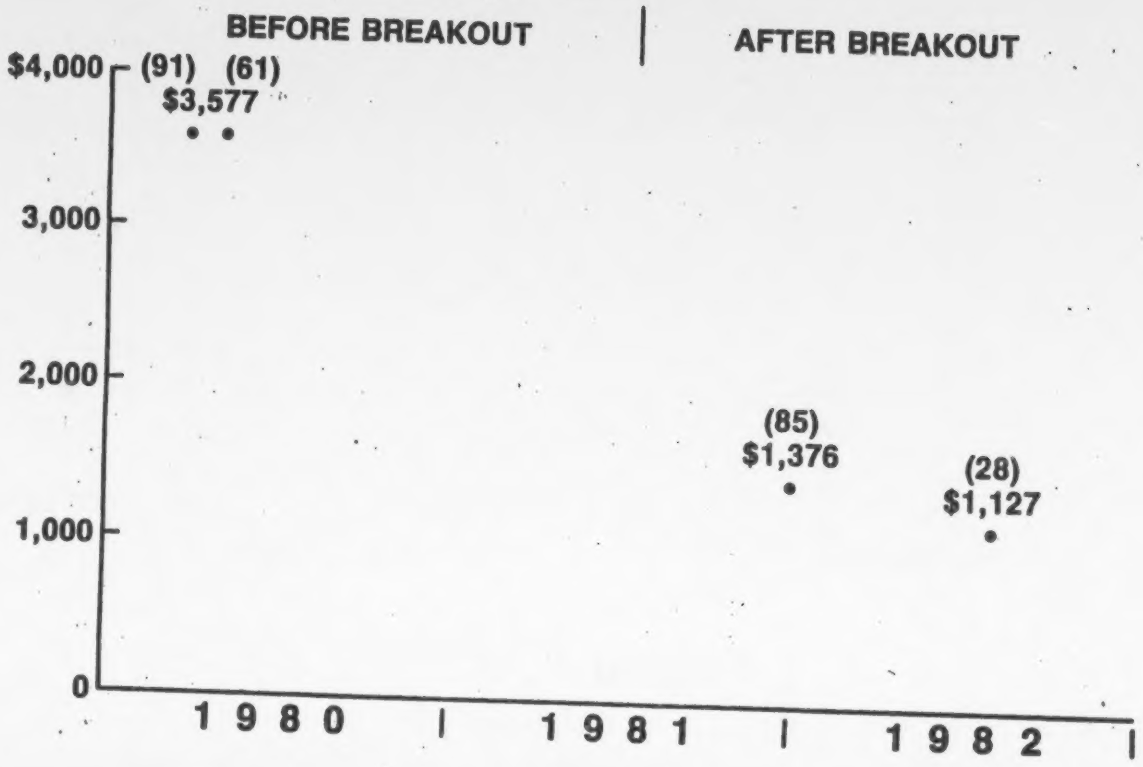
SAMPLE PART 58 —SEAL FOR AIRCRAFT
$ PRICE PER UNIT

(# UNITS)



Attachment III

SAMPLE PART 1 - BAFFLE FOR F-111
$ PRICE PER UNIT
(# UNITS)



Mr. BEDELL. Why don't you tell us the cost, and then we will see who felt they guessed the closest.

Mrs. BOXER. All right, do you want me to tell you what the Government paid, or what the actual cost is?

Mr. BEDELL. Well, give us the actual cost first.

Mrs. BOXER. The actual cost is $25.

Mr. BEDELL. Did anybody guess close to $25?

Mr. BILIRAKIS. What do you mean by "actual cost," Barbara?

Mrs. BOXER. What it cost to produce.

Mr. BILIRAKIS. All right, the actual manufacturing cost?

Mrs. BOXER. Yes, and the next question is what our Government paid for the part?

Mr. BEDELL. Did anybody come close?

OK, what did it cost the Government?

Mrs. BOXER. $850.

Mr. BEDELL. Did anybody come close to that? [Laughter.]

Mrs. BOXER. As a small businessman——

VOICE. I just qualified——

Mr. BEDELL. I think many of us would like to make it for $25 from what I see.

Mrs. BOXER. Well, Mr. Chairman, I think that really graphically shows what the American taxpayers are up against, and I think it is in the hands of this committee, certainly, to start the ball rolling with one of the bills you have before you.

I thank you for your kind attention.

Mr. BEDELL. Thank you very much.

Mr. Britt, do you have any questions?

Mr. BRITT. I would like to commend the Congresswoman from California on her testimony. A point of interest is that this breakout program, instituted a few years ago, has resulted with only 1,294 items, in a savings of almost $25 million. Breakout definitely has great potential for us, and the GAO report you cited also recommends that additional personnel be added to that breakout. The committee is going to hear later from a representative from that breakout program at Tinker.

Mrs. BOXER. Thank you.

Mr. BEDELL. Mr. Addabbo?

Mr. ADDABBO. Thank you, Mr. Chairman.

I wish to commend our colleague for this information. I couldn't partake in the contest because in my other committee we know the facts. The crime, Mr. Chairman, is that this committee, in our oversight and also my Defense Appropriations Committee have brought these facts out over the years. We get a lot of rhetoric which we will probably hear tomorrow from DOD about what they are doing and never really do. We constantly see nothing actually being done on the lower echelon, and it becomes ludicrous, so we have to force our own Government to save money through legislation.

We have tried it by direction, by report, by hearings, and it becomes ludicrous that at this point in time we have to again, as we did with Public Law 95-507 to get subcontracting proper subcontracting out of the primes, look to legislation because nothing has happened in the last 10 to 15 years within DOD.

The upper echelon says "Yes," but the man downstairs who is doing the buying never hears those orders, so we are going to have to give him direction. I think I have cosponsored your legislation.

Mrs. **Boxer**. Yes.

Mr. **Addabbo**. Thank you, Mr. Chairman.

Mr. **Bedell**. Thank you, Mr. Addabbo, and I think the chairman, at least, would like to recognize the leadership you have shown on many of these issues in your Appropriations Committee, as well.

Mr. Bilirakis.

Mr. **Bilirakis**. Thank you, Mr. Chairman.

Mr. Addabbo, I would ask, are you satisfied that the current administration is making honest efforts toward this end?

Mr. **Addabbo**. No. I'll say the last directive by Secretary Weinberger is a step in the right direction, but it is something that should have happened a long time ago, and if the Secretary had not reduced the oversight area of DOD, we might have been able to turn up many of these problems before.

But the directive that the Secretary has issued is definitely a step in the right direction.

Mr. **Bedell**. Thank you, sir.

Mr. **Bilirakis**. Are the charts that you refer to these net savings to the taxpayers?

I guess my question is, were there any costs to the taxpayers before the breakout—you know, additional personnel costs and whatnot?

Mrs. **Boxer**. Well, actually, we do have more people in the centers who are able to make these decisions. As I pointed out to you, I was very clear in my testimony what it would cost, and the savings.

For example, from this one part alone, that I demonstrated here—for one year, for one part, $1.5 million, whatever costs there were, you can add probably one person at most, so maybe you are talking about, maybe $30,000 to $40,000.

Mr. **Bilirakis**. OK. Thank you. Thank you, Mr. Chairman.

Mrs. **Boxer**. By the way, these charts are net savings, according to the GAO study. This is the GAO study, and this would show the net saving.

Mr. **Bilirakis**. It would take into consideration the additional personnel cost?

Mrs. **Boxer**. Yes.

Mr. **Bilirakis**. If you will?

Mrs. **Boxer**. Yes.

Mr. **Bilirakis**. That was really my question.

Mrs. **Boxer**. Thank you, sir.

Mr. **Bedell**. Thank you, Mr. Bilirakis.

The chairman would like to enter into the record an article from the New York Times, dated Sunday, October 2, 1983, which points out that the Pentagon let contracts for $4.2 billion on the last day of the fiscal year in order to be sure that they didn't turn any money back to the Government.

It says, "The majority were contracts in which the Pentagon negotiates a price with a single company and buys only from it."

I believe that should be entered into the record, because I think it bears upon the question asked by Mr. Bilirakis.

[The full text of the New York Times article, dated October 2, 1983, follows:]

[From the New York Times, Oct. 2, 1983]

PENTAGON, IN YEAR-END RUSH, SPENDS BILLIONS

The Defense Department, like all Government agencies, resists having money left over at the end of a fiscal year. When the Pentagon faced the end of the Federal fiscal year 1983 on Friday, it went on a $4.2 billion shopping excursion.

Military experts said it was the largest one-day expenditure by the department since the Vietnam War ended a decade ago.

Meanwhile, President Reagan signed the stopgap spending bill to keep Government agencies running through the start of the new year.

The Senate gave final Congressional approval to the measure Friday night, in a voice vote taken five hours before the Oct. 1 start of the Government fiscal year. The measure was intended to keep money flowing to the Government through Nov. 10.

NORMAL OPERATIONS APPROVED

In anticipation, the Office of Management and Budget told affected agencies to continue normal operations over the weekend in spite of the technical lapse in appropriations.

To avoid having to return any part of its appropriations for the expiring fiscal year to the Treasury Department, the Pentagon awarded 234 contracts and wiped out what would have been a surplus. The bare-bones descriptions of the last-minute contracts took 29 pages.

By contrast, the Pentagon normally announces two dozen to four dozen contracts every day. For example, on the previous Friday 40 contracts were let with a total value of $777.3 million.

BUILDUP OF MORE THAN A TRILLION

The Defense Department is in the midst of a five-year, $1,700 billion buildup, a record spending plan for peacetime. The plan is designed to cure what President Reagan and top Administration officials say are years of neglect of the military machine. In the 1983 fiscal year, the Pentagon was authorized to spend $178 billion.

Although the contracts were announced Friday, they were the product of months of work by more than 7,000 Pentagon employees.

The majority were contracts in which the Pentagon negotiates a price with a single company and buys only from it.

LACK OF BIDDING CRITICIZED

Such "sole source" contracts have been assailed by critics of military spending who say competition could tend to reduce prices. Defense Secretary Caspar W. Weinberger has ordered the Pentagon to seek competitive bidding where it can.

But many contracts are from a single concern, particularly a company that has won an earlier contract to produce a particular weapon.

For example, only Lockheed makes the C-130 Hercules, a cargo airplane popular with military leaders around the world because of its large carrying capacity and ability to take off and land on relatively short airstrips. The Air Force awarded Lockheed a $22.24 million pact for a pair of C-130's.

The largest single contract went to Honeywell, a $450 million agreement for 3,205 torpedoes and related work.

Pratt & Whitney and General Electric each received a $202.7 million contract for the Joint Fighter Engine Program, an Air Force effort to develop a single engine for use in different fighters.

While the Pentagon was spending $4.2 billion, it also rewarded a Navy employee who saved the service about $10,000.

Irene Usowski, a purchasing agent at the Naval Supply Center in Norfolk, Va., was given a $1,000 reward because she challenged prices ranging from $554 to $792 each, that a sole source contractor had quoted for fiberglass plates. She found they could be bought for far less, and the Navy ended up paying $20 each.

The Pentagon has been stung in recent weeks by disclosures that it paid high prices for spare parts, such as $450 for a simple claw hammer, and Mr. Weinberger has ordered special attention paid to contract for spare parts.

Mr. **Bedell**. Mr. Olin.

Mr. **Olin**. Mr. Chairman. Thank you.

I would like to compliment the Congresswoman for her initiative in this respect. I think she is absolutely on the right track. There is no question at all that anybody involved in procurement for a long time has known what businesses do, the suppliers to the Defense Department will do, with regard to their parts. They mark them up, and the more confidential they can be about the information, the better. They will go to great lengths to conceal the fact that the quarter penny tap screw is something you can pick up at a hardware store.

Now, my former business associates have been a supplier for many years, not so much to the Defense Department, but to industrial customers. The smart customers put spare parts specifications in their initial bid, so that if they wanted to get the main contract, we had to commit the same price level on spare parts for what they expected to purchase.

We didn't like that particularly, but it was good purchasing practice, on their part. The Defense Department could do the same thing. Those customers forced us to identify parts which were not proprietary, were not covered by patents, were ordinary things. The Defense Department could do the same thing. I think it is about time that we bear down and bring good sensible purchasing practices into the Defense Department, and I thank Congresswoman Boxer.

Mr. **Bedell**. Thank you, Mr. Olin. You have hit upon the purpose of these hearings and any markup that we are going to have, as we have that opportunity, to move forth legislation that will accomplish what the gentleman feels should be done.

Mr. Sisisky?

Mr. **Sisisky**. No questions.

Mr. **Bedell**. Mr. Boehlert?

Mr. **Boehlert**. No questions, Mr. Chairman. Just a couple of observations for Mrs. Boxer. I would like to thank her for an exceptionally well-done and very informative statement; and second, I would like to say, it is about time; it is about time that we are doing what we are doing.

It is so easy for us on Capitol Hill to look at the administration whether it is the present administration or the past administration and blame them for all the problems that occur, particularly in sensitive areas like this one, where we are wasting the taxpayers' dollars left and right.

I have a theory and my theory is part of the problem, a large part of the problem is right here on Capitol Hill, because we don't do what we are doing now often enough, and that is, exercise our proper oversight responsibility.

I want to commend Mrs. Boxer. I would like to commend you, and everybody up here. We are doing what we should have been doing long ago. It is about time.

Mr. **Bedell**. Thank you, Mr. Boelhert.

Mr. Ireland?

Mr. **Ireland**. Thank you, Mr. Chairman.

I would like to commend the gentlelady for her initiative. I think it has been amply shown that the American public is being played for a sucker, and we are all tired and are sick of it. We need to do something about it; and your initiative is a step in the right direction.

Mr. **Bedell**. Thank you, Mr. Ireland.

Mr. Ray?

Mr. **Ray**. Thank you, Mr. Chairman.

Mrs. Boxer, you did a very good job in presenting that case this morning. We appreciate it very much.

I would like to invite you to read some of the testimony that the Defense Armed Services Investigation Committee has also uncovered. We have had about five or six different hearings, where so many of these questions were raised; and I wanted to mention to you that we have checked into the problem of engineers.

Now, it is my understanding H.R. 3784 provides for four additional engineers where one is now provided. Is that correct?

Mrs. **Boxer**. That is correct.

Mr. **Ray**. It is my understanding that fiscal year 1984 Defense budget has included the money for about 175 engineers, but the big problem that we have got in this country is finding engineers that will work for the amount of money that the Federal Government will pay them. So, I do think we have got a critical question mark there that we ought to look into.

Also, Mr. Chairman, and Mrs. Boxer, while I totally concur in the fact that we need to dig into this very deeply, there are two sides to the issue—that particular ring there, I happen to have two very good friends—admirals in the Navy who lost their two sons just because of a ring like that failing in an F-100 engine. So, I do think we have got to be awfully cautious that as some of us fly 35,000 to 40,000 feet high, that we know that the spare parts supplier is credible. The 34-cent bolt which was challenged about a year or so ago, because it cost $4.35, was determined to have been a weak bolt which had caused the plane to crash.

So, I think as we go along into these hearings, we have got to be awfully cautious that we look at a balanced approach to it. There are big problems. The data processing system that the Department of Defense has can't cope with the massive work that they have to do. The F-100 engine has 8,000 parts in it, for instance, a massive job just keeping up with the inventory, for the great number of engines there.

But I do commend the fact that we are having these hearings here. I think we need to dig into them very deeply. I am involved very much in this particular committee and in the investigation subcommittee, and look forward to working very closely with you.

Thank you for coming.

Mr. **Bedell**. Thank you.

Mrs. **Boxer**. Mr. Chairman, if I might just respond very briefly to Congressman Ray.

First of all, on the question of the competitive salaries. That is certainly a problem with Federal employees in general. It is a whole other issue that we do have to face. We do build financial incentives into this program, so that I think we are trying, in one sense, to counteract that.

Second, I think you raise an extremely important issue of quality control, and I was very clear in my testimony to include that. I don't believe that the only quality comes from the large prime contractors in this great country of ours. I think if we look across this land with small business, we find some of our best products coming out of that community.

Obviously, we have to build in quality control. I come out of the local government in California, where it is a law—unless it is a very small contract—you must have competitive bidding, absolutely. That is why I was kind of shocked when I came here to see the lack of competitive bidding. But we always built in quality control. We never just automatically went with the low bidder. We interviewed; we were sure that items would be built in accordance with the specs, but I hear you and I think your point is very well taken.

Mr. **Ray**. Thank you.

Mr. **Bedell**. Mr. Schaefer?

Mr. **Schaefer**. No questions, sir.

Mr. **Bedell**. I have no questions, Barbara.

We certainly appreciate you being here. We appreciate the leadership you have shown in this area, and it is certainly the intention of the chairman of this subcommittee to move forward to markup and move forward with your legislation, as well as other legislation.

Mrs. **Boxer**. I am so pleased, and anything I can do to help, I will do.

Mr. **Bedell**. Thank you very much.

Mrs. **Boxer**. It's in your court, and I thank you very much.

Mr. **Bedell**. Thank you.

Mrs. **Boxer**. Thank you.

Mr. **Bedell**. Is Senator Grassley here?

[No response.]

Mr. **Bedell**. The chairman of our full committee, Parren Mitchell, I think, has a statement for us; is that correct, Parren?

Mr. **Mitchell**. Yes, if I may.

Mr. **Bedell**. We will ask whether or not the committee thinks you should be permitted to speak or not.

[Laughter.]

Mr. **Mitchell**. Well, I see the position to which I have been relegated, and I will wait for the approval of the committee.

Mr. **Bedell**. Well, OK, we just had a secret ballot, and——

Voice. May we have a rollcall on that, Mr. Chairman?

Mr. **Mitchell**. I don't think you want to be recorded on that vote.

OPENING STATEMENT OF HON. PARREN J. MITCHELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND, AND CHAIRMAN, COMMITTEE ON SMALL BUSINESS

Mr. **Mitchell**. I wanted to be at these hearings because I think they are enormously important, and I wanted to commend you, Mr. Chairman, and the members of the subcommittee, for scheduling the hearings.

I think this bill is of paramount importance. It addresses paramount concerns both to the small business community and to the American taxpayer.

Let me just say that 4 or 5 years ago, maybe a little longer ago, I was in one of the most spirited debates that I have ever been on the floor of the House of Representatives. We were discussing the school lunch program, and there had been a television show with some children throwing away their lunches. That spirited discussion dealt with the absolute waste in these domestic programs. There might have been okra sandwiches, and I am not particularly fond of okra. If any of you come from an okra area, that is all right, but, you know, each child does not like everything, and yet this throwing away of the sandwiches was revealed as an enormous waste in a school lunch program. Here we confront these absolutely mind-boggling statistics and data about waste in not only the military but across the board.

The statistics compiled by this committee indicates that small business has received less than 20 percent of the Federal prime contract dollar, 17 to 18 percent over the last several years.

However, you are getting news reports and information concerning the ridiculous prices the military pays to a few privileged large businesses for items that should cost far less if only there were more competition. It is my firm belief, and I think it is the belief of the Small Business Committee—it is the premise of this bill, indeed—that there is a direct correlation between inflated costs and the lack of small business opportunity to compete.

In my opinion, if the Congress is dedicated to the reform of the Federal procurement process, that effort should, by all right, begin with this committee, and with this subcommittee.

I am absolutely convinced that it is small business that will provide competition, and therefore it will be small businessses which will save the American taxpayer enormous sums of money.

I just wanted to tell you that I am grateful for these hearings. I will stay as long as I can. I am only sorry that I am not an official member of your subcommittee, but let's move it as quickly as we can. I would like for this legislation to be considered as early as possible.

Thank you very much, Mr. Chairman.

Mr. BEDELL. Thank you, Mr. Chairman.

Our plan is to move forward with our markup as soon as possible. However, it is the opinion of chairman of this subcommittee that this is such a major issue and of such great importance that we do want to give it adequate thought and consideration and not come forth with legislation until we feel that we have done everything we possibly could to perfect such legislation. I presume the chairman would agree with that.

Mr. MITCHELL. Of course, I think obviously that the military has the right to be heard, pointing out the careful, measured, meticulous steps it has followed historically, traditionally, to prevent waste. So, let's hear from all sides.

Let's have the bill.

Mr. BEDELL. Sure. [Laughter.]

Are there any questions, or comments?

Mr. Ireland.

Mr. IRELAND. Mr. Chairman, I would like to impart some information that has to do with Congressman Ray's dialog with Congresswoman Boxer concerning the quality of parts. We asked the

FAA to tell us over the last 10 years how many airworthiness directives had been issued against small parts manufacturers, the ones that make the substitute parts, and against the original manufacturers. Interestingly enough, and these are airworthiness directives that say, "Shape up; the quality is not good."

Only 58 were issued against the PMA's, the substitute part manufacturers and 2,238 against original manufacturers. We should begin our hearing knowing that quality problems can and do originate with the original manufacturer that is charging the high prices.

Thank you, Mr. Chairman.

Mr. MITCHELL. Thank you.

Mr. BEDELL. Are there any other comments or questions of our chairman?

[No response.]

Mr. BEDELL. If not, you are certainly welcome to sit up here.

Mr. MITCHELL. I like the view from down here. Not the portrait, but the view.

Thank you very much, for letting me sit in with you.

[Congressman Mitchell's prepared statement follows:]

PREPARED STATEMENT OF HON. PARREN J. MITCHELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND, AND CHAIRMAN, COMMITTEE ON SMALL BUSINESS

I would like to publicly commend Chairman Bedell for scheduling these hearings on H.R. 2133. I consider this bill and the issues it addresses of paramount concern both to the small business community and to the American taxpayer.

Statistics recently complied by this committee indicate that small business is receiving less than 20 percent of the Federal prime contract dollar. However, news reports abound concerning the ridiculous prices the military pays to a few privileged large businesses for items that should cost far less if there were only far more competition.

It is my firm belief—and the premise of my bill—that there is a direct correlation between inflated costs and the lack of small business opportunity to compete. If this Congress is dedicated to the reform of the Federal procurement process, that effort should, by all right, begin here. It is small business that will provide the competition; and it is small business that will save the taxpayer's money.

As of this date, twenty-three Members of the House have cosponsored H.R. 2133. I am grateful for these early expressions of support. I trust that our numbers will grow as this committee places before the entire House the evidence it will receive over the next two days.

Mr. Chairman, I will devote the remainder of my statement to a summary of the major provisions of H.R. 2133.

(1) Sole source contracts for spare or replacement parts may be awarded only when the head of the buying activity determines that one of five narrowly-defined exemptions has been met. SBA may, in addition, appeal a sole source decision directly to the head of the agency if it believes that the exemption was improperly granted.

(2) A Federal agency would be prohibited from refusing to consider an offer made by a small business concern solely because it is not on a "qualified bidders list" or because the product is not on a "qualified products list."

(3) The bill prohibits SBA from refusing to accept a certificate of competency (CoC) referral and from limiting the availability of the CoC procedure due to the size of the contracts or the nature of the work to be performed. This review process is the only recourse available to a small contractor who has been denied a contract because of "non-responsibility," even though it has submitted the lowest bid.

(4) A small business set-aside is required for the award of any Federal contract if the contracting officer reasonably expects that two or more small business concerns will submit offers at reasonable prices. SBA maintains its authority, or course, to appeal a negative set-aside determination.

(5) The contracting officer is to presume that the criteria for small business set-aside are met for all contracts between $25,000 and $2 million.

(6) The value of contracts to be reserved for exclusive competition among small business is raised from the present maximum of $10,000 to $25,000.

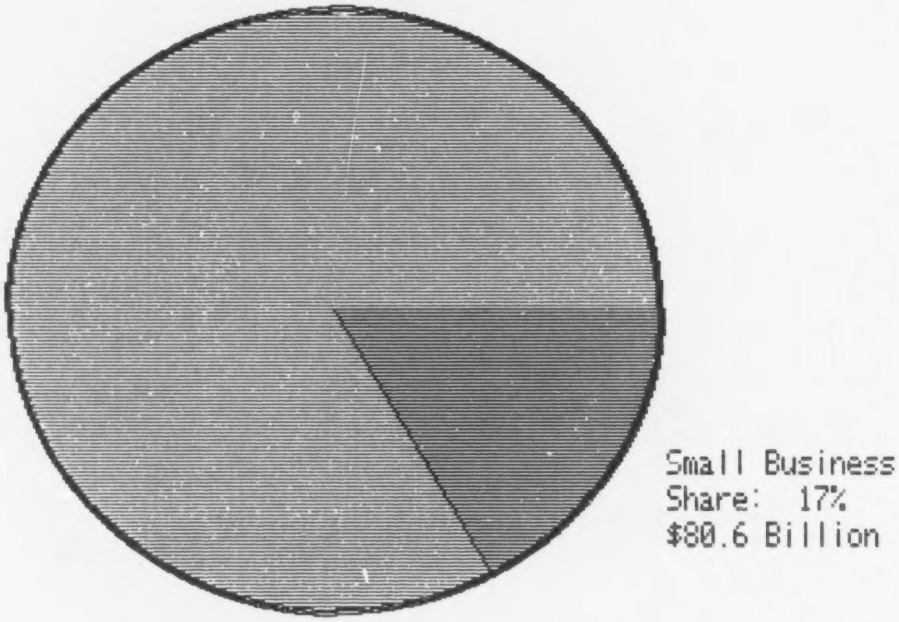
(7) Commercial activities which are converted to contract must be packaged in a way to promote the maximum opportunity for small business. This would, in effect, eliminate umbrella or consolidated-type contracts.

(8) Present law requires the head of each agency and SBA to negotiate yearly procurement goals for prime contracts and subcontracting opportunities for small and minority business concerns. Under the terms of H.R. 2133, if goals are not established within 60 days of the fiscal year to which they pertain, mandatory prime and subcontracting goals will be imposed.

(9) The bill sets forth priorities in carrying out the small business and labor surplus area set-aside programs.

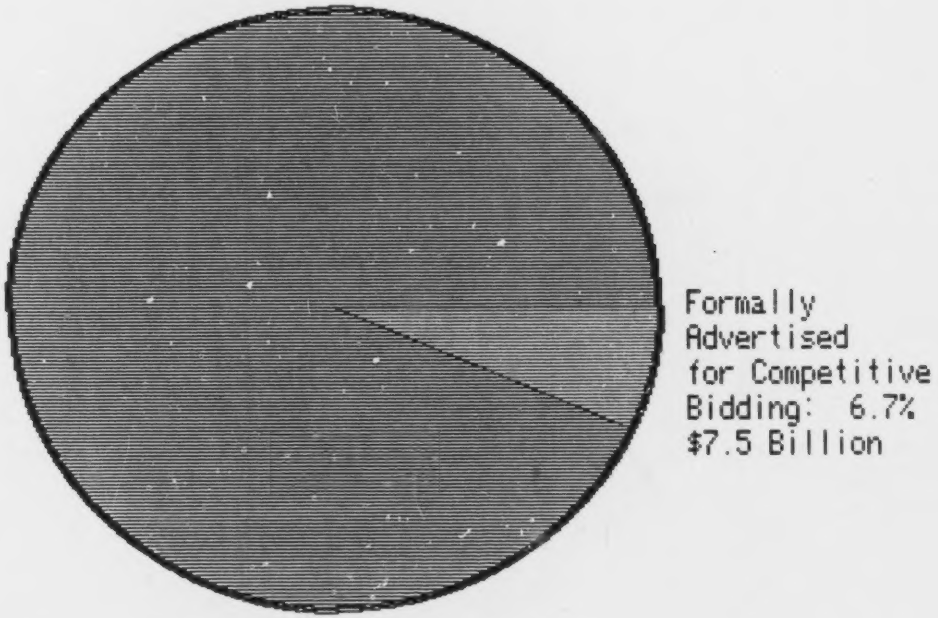
(10) SBA would be required to submit additional information to accompany its annual reports to the Congress on subcontracting plans which it found to be deficient but which were accepted by Federal agencies.

Federal Government Contract Awards to Businesses in the U.S.
Fiscal Years 1979 through 2nd Qtr. 1983
Total Contracts: $474.5 Billion



Source: Federal Procurement Data System

Department of Defense Contracts Advertised for Competitive Bidding
Fiscal Year 1982
Total Contracts: $112 Billion



Source: DOD, "Prime Contract Awards," Directorate and Reports, The Pentagon, Wash.,D.C.

Mr. **Bedell**. Is Senator Grassley here yet?

[No response.]

Mr. **Bedell**. If not, we will proceed with our first panel, which consists of Tom Rankin of G.K.S., Inc. of Cleveland, Ohio; and Jon Williams, Association of Southwest Government Contractors of Arlington, Tex.

Mr. **Boehlert**. Mr. Chairman, could I just ask you what is the plan for the balance of the morning, in view of the fact that we have the special session?

Mr. **Bedell**. Yes. I am sorry. We announced that earlier. We have checked with the Parliamentarian, and it is perfectly proper for us to continue our hearings in spite of the joint session.

I am fully aware of the fact that some Members will feel that they should be at the joint session, but since we had people coming from all over, and since these hearings have been scheduled for a long time, we will proceed with them. I would hope that we could get through this morning.

At the rate we are going, I question that we will. If so, we will continue the hearings this afternoon.

I would ask you to stand, if you would please.

[The witnesses, Messrs. Rankin and Williams are sworn by the chairman.]

Mr. **Bedell**. We will start with Mr. Rankin.

Because of the time, we are asking all of our witnesses to hold their testimony to no more than 10 minutes, and unless there is disagreement among the committee, we will limit our questioning to 5 minutes.

Is there anybody who objects to that?

[No response.]

TESTIMONY OF THOMAS R. RANKIN, PRESIDENT, G.K.S., INC., AND ON BEHALF OF SMALL BUSINESS UNITED, AS A TRUSTEE OF NATIONAL SMALL BUSINESS CONTRACTORS ASSOCIATION, AND AS A TRUSTEE OF THE CLEVELAND GOVERNMENT CONTRACTORS SALES PROGRAM

Mr. **Rankin**. Chairman Bedell and members of the subcommittee, I sincerely appreciate the invitation to testify on H.R. 2133.

As president of a successful small business prime contractor with the Department of Defense, also let the record show that I appear here as a spokesman for Small Business United, a trustee of National Small Business Contractors Association, and a trustee of the Cleveland Government Contractors Sales Program I feel well qualified to address you on the competitive environment in defense contracting.

I come before you today, not to deplore DOD or its contracting methods, but in an effort to make the system work better and at a lower cost to the taxpayer by recommending specific legislation to correct current DOD procurement system deficiencies in two areas: One, alleged proprietary rights leading to sole source procurements, and two, DOD's handling of its value engineering change proposal programs.

As background, G.K.S., Inc., which stands for Government Kit Supply, supplies parts kits to the armed services for use in the repair and overhaul of aircraft engines and engine accessories.

In 1980, G.K.S. was named "The Outstanding Small Business Supplier of the Year" by the Cleveland DCASR, and annual sales to the Government are in excess of $6 million. Section 4 of H.R. 2133 addresses the issue of proprietary interests preventing competitive procurements. When a company claims a proprietary interest in an item, it assumes that it controls or owns the rights to the technical data that describes that item.

Consequently, the Government is often left with only a company's part number as its total description of the product it needs to procure. The result is to effectively close out all the possibility of any competition, leaving the Government with only one source.

In industry, the procurement cycle starts with a clear description of the particular item to be purchased. This item description, in the form of detailed production drawings, material, and process specifications, performance characteristics, et cetera, is then circulated throughout the private sector to seek availability and pricing.

Without such an item description, potential suppliers would have no clear definition of the product to be purchased and consequently could not respond in a responsible manner. Similarly, if the Government does not adequately describe the item it desires to procure, how can it expect industry to offer the most cost effective proposal. As with any complex problem, there are long-term and short-term solutions. First, I would like to discuss the long-term solution.

I believe that proprietary rights in technical data is, without question, the principal obstruction to greater small business participation in DOD spare parts procurement, and the reason for exorbitant prices sometimes being charged to the Government. Companies holding such rights to items required by the Government often find themselves in a sole source posture; that is, being in the position to virtually dictate prices to DOD. With profit being the prime objective of our capitalistic system, companies finding themselves in a position to maximize profit will usually do so at the Government's expense.

In the kit business, there are many "proprietary" parts. Due to a DOD practice known as "split award" type contracting, where the Government purchases proprietary parts from a sole source supplier and then forward them to another contractor as Government furnished property, G.K.S. frequently has the opportunity to examine purported proprietary items.

More often than not, we have found that such parts were purchased by the Government at high prices, which defy rational explanation. I have made available some examples for you to look at. Often our examination of such sole source parts reveals that many of these items possess no proprietary characteristics and are sometimes readily available, at greatly reduced cost to the Government, in the commercial marketplace.

Indeed, a significant percentage of such items are common gaskets, rings, O-rings, washers, nuts and bolts that the original supplier had listed as proprietary and the Government has purchased those items accordingly ever since.

One example is the B-52 bomber, most certainly a mature weapons system by any standard. However, many of its component parts are still being purchased by DOD on a sole source basis due to alleged proprietary rights in technical data held by the OEM, the original equipment manufacturers.

Unfortunately, there now exists no statute or defense acquisition regulation [DAR], which places a time limit on proprietary rights. As a matter of fact, the expression, "proprietary rights" is not even defined in DAR.

Therefore, the long-term solution that I propose is for Congress to pass legislation to define the Government's and the contractor's position in "rights in data" on all new weapons systems, and to place a time limit on the application of proprietary rights.

Such legislation, similar to existing patent and copyright laws would simply define the exact period of time the Government is willing to pay for such use. After expiration of the time period, the Government would be free to use such technical data to purchase the required item competitively.

In a recent issue of Aviation Week, and I guess yesterday in the Wall Street Journal, Air Force Secretary Verne D. Orr suggested a 5-year limitation on proprietary rights.

The only way to eliminate proprietary rights in technical data altogether is for the Government to own unlimited rights to such data. The AGT 1500 turbine engine, the powerplant to the Army's M-1 Abrams tank, is a recent example of how DOD's procurement system should work.

During the development of the AGT 1500, the Army made every effort to challenge alleged proprietary rights in technical data, and in those instances where a legitimate instance was found, secured the funding necessary to purchase such rights. The end result is that the Government owns all the technical data necessary to competitively procure virtually every item of the engine. Consequently, the Army will realize enormous savings on spare parts over the program life of this engine.

In contrast is the F-100 turbine engine, powerplant for the Air Force's F-16 fighter, where due to an abundance of purported proprietary rights in technical data by the OEM's, the Government is forced to purchase a high percentage of spare parts for this engine on a sole source basis. Needless to say, over the long expected life of this program, the Government will not enjoy the cost saving benefits of competition.

To insure that the Army's example with the AGT 1500 turbine engine becomes the norm rather than the exception that it is, I propose legislation which would require DOD to aggressively challenge all alleged proprietary rights during the developmental phase of weapons systems and, where legitimate interest is found, to negotiate the purchase of such data. Obviously, Congress must be willing to authorize the funding necessary to both hire additional engineers to challenge alleged proprietary rights, and to purchase legitimate proprietary technical data, in order to realize the program life savings on spare parts which competition will generate.

Let us now discuss some short term solutions.

When a contractor, such as G.K.S., has the opportunity to examine alleged proprietary parts and discovers that the items, in fact, possess no proprietary characteristics, and are readily available in the commercial sector, or could easily be made available through reverse engineering, there is an established DOD program that can be utilized to immediately realize savings. In principal, the Government's value engineering change proposal program is ideally suited for such instances. Upon identifying a potential cost saving idea, the contractor submits his proposal with all necessary substantiating data and, if approved, shares in the savings for a specified period of time.

Unfortunately, the system does not always work.

Over the past 2 years, G.K.S. has repeatedly submitted VECP's to the Air Force covering items in kit contracts that G.K.S. has been awarded. The VECP's our company submitted, identified alternative, less costly sources for items of Government furnished property, that is, purported sole source/proprietary items. In each case, the VECP was rejected as not being "within the scope of the value engineering change proposal program as stated in DAR 1-1700." Amazingly, the sources supplied were approved and the Air Force proceeded to use our recommended alternate sources on future solicitations, thus realizing the subsequent cost savings.

Needless to say, after such treatment, neither G.K.S. nor any other contractor, has incentive to continue its expenditures of time, money, and human resources to affect cost savings for the Government when the Air Force refuses to share such savings with the contractor who was responsible for same. Without question, this is an area where appropriate legislation would result in immediate and substantial savings to the Government.

Accordingly, I recommend that Congress enact legislation which requires DOD to share the cost savings, resulting from its approval and/or subsequent use of alternate sources, with the company that had proposed same through a VECP.

In addition, the section in DAR which authorizes the VECP program requires that only a company which currently has a Government contract for the particular item may submit a VECP for consideration. If the DOD is sincere in its stated desire to reduce its spare parts procurement costs, then it should not prohibit companies other than the one holding the particular contract from submitting VECP's. Therefore, the legislation I propose should also mandate DOD to consider any VECP which offers potential cost savings regardless of whether or not the submitting company currently has a contract for the particular item.

In summary, I have discussed two areas: One, alleged proprietary rights leading to sole source procurements; and, two expansion of the VECP program.

Immediate legislative action to correct these DOD procurement system deficiencies will result in a higher percentage of competitive contracting, greater participation by small business and greatly reduced cost to the taxpayer.

I stand ready to make myself and key employees available to your subcommittee staff for the purpose of discussing specific details of the proposals I have made here today.

At this time, I would be happy to answer any questions you might have.

[Mr. Rankin's prepared statement follows:]

PREPARED STATEMENT OF THOMAS R. RANKIN, PRESIDENT, G.K.S., INC., AND ON BEHALF OF SMALL BUSINESS UNITED, AS A TRUSTEE OF NATIONAL SMALL BUSINESS CONTRACTORS ASSOCIATION, AND AS A TRUSTEE OF THE CLEVELAND GOVERNMENT CONTRACTORS SALES PROGRAM

Chairman Bedell and members of the Subcommittee, I sincerely appreciate the invitation to testify on H.R. 2133. As president of a successful small business prime contractor with the Department of Defense (DOD), I feel well qualified to address you on the competitive environment in defense contracting. I come before you today, not to deplore DOD or its contracting methods, but in an effort to make the system work better and at a lower cost to the taxpayer by recommending specific legislation to correct current DOD procurement system deficiencies in two areas: (1) alleged proprietary rights leading to sole source procurements; and, (2) DOD's handling of its Value Engineering Change Proposal Programs.

As background, G.K.S., Inc., which stands for Government Kit Supply, supplies parts kits to the armed services for use in the repair and overhaul of aircraft engines and engine accessories. In 1980, G.K.S. was named "The Outstanding Small Business Supplier of the Year" by the Cleveland Defense Contract Administration Services Region of the Defense Logistics Agency. Current annual sales to the Government are in excess of six million dollars.

Section 4 of H.R. 2133 addresses the issue of proprietary interests preventing competitive procurements. When a company claims a proprietary interest in an item, it assumes that it controls/owns the rights to the technical data that describes that item. Consequently, the Government is often left with only a company's part number as its total description of the product it needs to procure. The result is to effectively close out the possibility of any competition, leaving the Government with only one source.

In industry, the procurement cycle starts with a clear description of the particular item to be purchased. This item description, in the form of detailed production drawings, material and process specifications, performance characteristics, etc., is then circulated throughout the private sector to seek availability and pricing. Without such an item description, potential suppliers would have no clear definition of the product to be purchased and consequently could not respond in a responsible manner. Similarly, if the Government does not adequately describe the item it desires to procure, how can it expect industry to offer the most cost effective proposal.

As with any complex problem, there are long term and short term solutions. First, let us discuss a long term solution.

I believe that proprietary rights in technical data is, without question, the principal obstruction to greater small business participation in DOD spare parts procurement, and the reason for exorbitant prices sometimes being charged to the Government. Companies holding such rights to items required by the government often find themselves in a sole source posture, i.e., being in the position to virtually dictate prices to DOD. With profit being the prime objective of our capitalistic system, companies finding themselves in a position to maximize profit will usually do so, at the Government's expense.

In the kit business there are many "proprietary" parts. Due to a DOD practice known as "split ward" type contracting, where the Government purchases proprietary parts from a sole source supplier and then forwards them to another contractor as Government Furnished Property (GFP), G.K.S., frequently has the opportunity to examine purported proprietary items. More often than not, we have found that such parts were purchased by the Government as high prices which defy rational explanation. I have made available some examples for your review.

Often, our examination of such sole source parts reveals that many of these items possess no proprietary characteristics and are sometimes readily available, at greatly reduced cost to the Government, in the commercial marketplace. Indeed, a significant percentage of such items are common gaskets, rings, O-rings, washers, nuts and bolts that the original supplier has listed as proprietary and the Government has purchased those items accordingly ever since. One example it the B-52 Bomber, most certainly a mature weapons system by any standard, however, many of its component parts are still being purchased by DOD on a sole source basis due to alleged proprietary rights in technical data held by original equipment manufacturers (OEM's).

Unfortunately, there now exists no statute or Defense Acquisition Regulation (DAR) which places a time limit on proprietary rights. As matter of fact, the expression "proprietary rights" is not even defined in (DAR). Therefore, the long term solution I propose, is for Congress to pass legislation to define the Government's and the contractor's position in "rights in data" on all new weapons systems and to place a time limit on the application of proprietary rights. Such legislation, similar to existing patent and copyright laws would simply define the exact period of time that the Government is willing to pay for such use. After expiration of the time period, the Government would be free to use such technical data to purchase the required item competitively. In a recent issue of the magazine Aviation Week & Space Technology, Air Force Secretary Verne D. Orr suggested a five year limitation on proprietary rights.

The only way to eliminate proprietary rights in technical data altogether, is for the Government to own unlimited rights to such data. The AGT 1500 turbine engine, the powerplant to the Army's M-1 Abrams Tank, is a recent example of how DoD's procurement system should work. During the development of the AGT 1500, the Army made every effort to challenge alleged proprietary rights in technical data and in those instances where a legitimate interest was found, secured the funding necessary to purchase such rights. The end result is that the government owns all the technical data necessary to competitively procure virtually every part of the engine. Consequently, the Army will realize enormous savings on spare parts over the program life of this engine. In contrast, is the F 100 Turbine engine, powerplant for the Air Force's F-16 Fighter, where, due to an abundance of purported proprietary rights in technical data by the OEM's, the Government is forced to purchases a high percentage of spare parts for this engine on a sole source basis. Needless to say, over the long expected life of this program, the Government will not enjoy the cost saving benefits of competition.

To ensure that the Army's example with the AGT 1500 turbine engine becomes the norm rather than the exception that it is, I propose legislation which would require DoD to aggressively challenge all alleged proprietary rights during the developmental phase of weapons systems and, where legitimate interest is found, to negotiate the purchase of such data. Obviously, Congress must be willing to authorize the funding necessary to both hire additional engineers to challenge alleged proprietary rights, and to purchase legitimate proprietary technical data, in order to realize the program life savings on spare parts which competition will generate.

Let us now discuss some short term solutions.

When a contractor, such as G.K.S., has the opportunity to examine alleged proprietary parts and discovers that the items, in fact, possess no proprietary characteristics—and are readily available in the commercial sector or could easily be made available through reverse engineering—there is an established DoD program that can be utilized to immediately realize saving. In principle, the Government's Value Engineering Change Proposal (VECP) Program is ideally suited for such instances. Upon identifying a potential cost saving idea, the contractor submits his proposal with all necessary substantiating data and, if approved, shares in the savings for a specified period of time. Unfortunately, the system does not always work.

Over the past two years, G.K.S. has repeatedly submitted VECP's to the Air Force covering items in kit contracts that G.K.S. has been awarded. The VECP's our company submitted, identified alternative, less costly sources for items of Government Furnished Property, i.e., purported sole source/proprietary items. In each case, the VECP was rejected as not being "within the scope of the Value Engineering Change Proposal Program as stated in DAR 1-1700". Amazingly, the sources supplied were approved and the Air Force proceeded to use our recommended alternate sources on future solicitations, thus realizing the subsequent cost savings.

Needless to say, after such treatment, neither G.K.S. nor any other contractors, has incentive to continue its expenditures of time, money and human resources to affect cost savings for the Government when the Air Force refuses to share such savings with the contractor who was responsible for same. Without question, this is an area where appropriate legislation would result in immediate substantial savings to the Government.

Accordingly, I recommend that Congress enact legislation which requires DoD to share the cost savings, resulting from it approval and/or subsequent use of alternate sources, with the company that had proposed same through a VECP

In addition, the section in DAR which authorizes the VECP Program requires that only a company which currently has a Government contract for the particular item may submit a VECP for consideration. If the DoD is sincere in its stated desire to reduce its spare parts procurement costs, then it should not prohibit companies other than the one holding the particular contract from submitting VECP's. Therefore the legislation I propose should also mandate DoD to consider any VECP which offers potential cost savings regardless of whether or not the submitting company currently has a contract for the particular item.

In summary, I have discussed two areas: (1) alleged proprietary rights leading to sole source procurements; and, (2) expansion of the VECP Program.

Immediate legislative action to correct these DoD procurement system deficiencies will result in a higher percentage of competitive contracting, greater participation by small business and greatly reduced cost to the taxpayer.

I stand ready to make myself and key employees available to your subcommitte staff for the purpose of discussing specific details of the proposals I have made here today.

At this time, I will be most happy to answer any questions the members of this subcommittee may have.

Mr. BEDELL. Thank you very much, Mr. Rankin.

I also see that Senator Grassley is here.

Senator, if you want to come forward then we will interrupt the panel here for your testimony, so you can get back to the important work of keeping the Senate operating properly over there.

We're glad to welcome you back to the House, Chuck.

Senator GRASSLEY. Thank you, Mr. Chairman, and members of the subcommittee.

TESTIMONY OF HON. CHARLES E. GRASSLEY, A SENATOR IN CONGRESS FROM THE STATE OF IOWA

Senator GRASSLEY. I want to say thank you for your leadership in this area, and for holding these hearings. And I would expect out of these hearings to come some proposals that will make a fundamental way in which the Government does business for the benefit not only of our country and the economy, but also for the benefit of the small business people.

Mr. BEDELL. Excuse me; can you hear in the back? I don't think they can. I don't know if you need different microphones.

Senator GRASSLEY. Mr. Chairman, I wish to thank you, and the members of this subcommittee, for inviting me to share with you my observations of, and concern with, Defense Department procurement.

It is one of the most relevant subjects because understanding the structural problems in the defense procurement process will help us know and understand the problems inherent in the entire Federal bureaucracy. What the Congress does to reform the Defense Department will eventually have to spill over to other departments and agencies. The entire Federal bureaucracy is structured in the same way as the Pentagon, and therefore, must be reoriented in the same manner.

I cannot lay out for you the entire defense procurement problem because, one, it is too large, and, two, we do not have that much time at this hearing. I will, however, provide a broader critique of the procurement process, why the problems arise, and what we in the Congress can do to help solve that problem.

We are all aware of this spare parts overpricing scandal. We must realize though that this is just a symptom of a much larger problem we all know of, underfunding. And in turn, the underfunding problem is a product of a procurement process whose nature is to behave as a monopoly. Underfunding of a budget occurs when resources do not match overall budget requirements.

One problem is the fact that the Congress chooses year after year to stretch out programs rather than work with DOD to prioritize and cancel programs. Stretching out is a major contributor to ever rising unit cost, a prime mover of the underfunded budget.

A more fundamental cause is that program cost are underestimated in the first place. In most instances bureaucracies deliberately underestimate costs to buy their program into the budget. That term is referred to as low-balling.

When low-balling occurs in the Federal budget, the result is larger deficits. When it occurs in the Defense budget, the result is fewer weapons than planned, at a much greater unit cost. Some of those greater costs are extended then to spare parts.

Finally, but most important, underfunding is the result of a bureaucracy administering prices, as in a socialistic system. The market does not set prices, as is the usual experience in this country, and our goal. Instead, Pentagon contract officers negotiate the price of what they buy. Contractor inefficiency reaches literally unbelievable proportions. The result is a pricing system completely unsubjected to the rigors and disciplines of the free market.

Underfunding has been a decades old persistent, and systematic problem in the defense budget, transcending administrations and partisan politics. The extent to which monopolies continue to be tolerated by the Pentagon, and by Congress, is the extent of which underfunding will continue, and related problems, such as spare parts overpricing will continue.

I recall the very wise words of our distinguished colleague, the Congressman from New York, Jack Kemp. Jack Kemp teaches that if we subsidize something, we get more of it. This is the most fundamental of economic principles. If we subsidize inefficiency and waste, we're going to get more of it, and we do. If we do nothing to restructure the bureaucracy that produces $1,000 stool caps, we will continue to get more of this same.

There is another serious effect of monopolies and bureaucracies on the defense procurement, is the effect on the product itself, the tendency of a bureaucracy to focus the majority of its energies on inputs, rather than on outputs. Let me give you an example. In businesses, they derive their income from producing a superior product. Therefore, more emphasis will be put on output. The better the product, the higher the income derived from that product.

Bureaucracies are different. They get their money from budgets. To get more money bureaucracies need more lobbyists, more programs, and higher prices in their related industries. They are not after a better products. This is why we hear so many stories about weapons systems that do not work, or as in another example, why test scores in our schools decline despite larger and larger budgets for education.

To correct such a pervasive, and deeply ingrained pattern, requires a fundamental reorganization of the Pentagon, away from monopoly, and centralization, and instead toward free market competition. This means that the system of rewards and punishments currently governing actions of the DOD, must be reversed. Right now the Pentagon bureaucracy rewards cost overruns in the procurement of inefficient weapons. It rewards administering of prices. It rewards constantly diminishing quantities of weapons and force structure.

At the same time it discourages cost savings and competition. It discourages effective weapons testing. In short, it discourages the principles by which every American, and most of the free world, does business. To the American people, DOD's system of rewards and punishments is very much upside down. When looked at from the inside of the bureaucracy, they see it as pretty much the right side up. The system to them is normal, which is why the bureaucrat doesn't blush when he has to pay $1,000 for a plastic stool cap. The bureaucrat is not rated by his ability to save money from the taxpayer, but by how fast he can procure an item, and by how much he can increase his budget. He knows how to work the system of rewards and punishments. There is one very therapeutic step, which I would urge the Congress to take to begin to restructure the system of rewards and punishments within the Pentagon bureaucracy. But prior to indicating what that step might be, let me contrast Congress traditional method of dealing with such problems versus the way we ought to approach the problem.

The traditional way that Congress has dealt with such problems has been to legislate micromanagement. For instance, thou shalt not purchase stool caps for $1,000. Of course, that's an exaggeration, but we still tend to work in that direction.

But legislating micromanagement is not the role of the Congress. Instead of running around like a fire brigade dousing each fire that pops out, we in the Congress should be looking for the pyromaniac. The problem is not simply a stool cap that costs $1,000, that is a phenomenon attached to something that is much, much deeper. If we understand the problem as being caused by monopoly, the cure becomes much more straightforward. We must force competition into our defense procurement system.

To cure the problem inherent in DOD requires a much broader approach. It requires a restructuring. It requires changing the context by which DOD conducts its affairs.

The Congress must force the Defense Department to reorient itself away from monopoly, and toward the free market. Instead, several of us in Congress who have been concerned about such structural problems have introduced a bill to increase modestly each year the amount of true competition for defense dollars. Presently only 6 percent of our defense dollars are truly competed for through advertised competitive bidding. Our bill would raise that figure by 5 percent per year until 70 percent of all defense funds are used competitively. That's 13 years to reorient the Defense Department to free marketing principles.

We have dubbed this bill creeping capitalism. If the Pentagon did not comply with the requirements of the bill, then of course the penalty would be to freeze all negotiated contract funds in the defense budget. Unlike most bills that are proposed, or passed by Congress, the creeping capitalism bill defines an objective; establishes a set of goals; provides a timetable; and carries a sanction, or an incentive in the event the law is not complied with.

It is my hope that more and more of our legislation dealing with not only the Pentagon, but other agencies as well, will begin to use the same approach. It is time that Congress becomes more accountable to itself by defining objectives in legislation, giving timetables, using the purse as a means of incentive, and measuring the performance of the bureaucracy against objectives stated in the legislation. I'm under no illusion that this approach is a cure-all. It will take constant vigilance on our part, reversing the deeply ingrained pattern of any bureaucracy, especially that of the Pentagon, may take as long as it took for these problems to develop. There is an enormous constituency out there for business to continue as it now exists. There will be an enormous struggle just to keep the idea of true competition alive until more people are deriving benefits from competition, rather than deriving benefits from our present system of monopoly.

Until then the system will seek to undermine competition, and to preserve the status quo. I urge this subcommittee to continue its fine work in finding a solution to these problems that we face with the Defense Department, but I also urge you not to stop there. This entire Federal Government is structured in the same way as the Pentagon. I hope this lesson of the Pentagon is one that we in Congress will eventually learn from the story of the $1,000 stool cap.

Thank you, Mr. Chairman.

Mr. BEDELL. Thank you very much, Senator.

Mr. Britt?

Mr. BRITT. No questions, Mr. Chairman.

Mr. BEDELL. Mr. Bilirakis?

Mr. BILIRAKIS. Senator, how would you address the proprietary interest question?

Senator GRASSLEY. Well, I think first of all we have to define it. It isn't defined. I think if it's defined, that will be a big step toward curing it. I think it's easy to say you ought to strike them off after a certain number of years, and I think that there ought to be some sort of a guideline for doing that, but I think a definition of the problem is an important one.

A little bit like we've never bothered to define what a consultant is so we can spend all sorts of money on consultants when maybe they're legitimacy can be questioned. But we don't have a measure by doing that, and I would start there.

Mr. BILIRAKIS. You would find then some merit in cutting it off after a certain number of years?

Senator GRASSLEY. Yes, I think so, because why should proprietary rights have a longer life than patent life.

Mr. BILIRAKIS. Yes.

Senator GRASSLEY. Presently they can have.

Mr. BILIRAKIS. Thank you, sir. Thank you, Mr. Chairman.

Mr. BEDELL. Mr. Addabbo?

Mr. ADDABBO. Thank you, Mr. Chairman.

I agree with colleague, my former colleague from the House. When he was in the House I don't think I ever agreed with him, but today it's a privilege to join with him on this most important issue.

Senator GRASSLEY. Well, we never had $200 billion deficits when I was in the House. We never had a growing Defense budget that was buying less, and we find ourselves in a situation where these aren't economic times as usual. They're very unusual times, and I think they demand dramatic action. I think the changes I propose for the Defense budget to get more competition into the Defense budget is simply the application of everything we believe in, into that department, for increasing the strength of our defense regardless of the level of appropriation.

Mr. **Addabbo**. I fully agree with the gentleman. I'm glad we're on the same side for a change.

Senator **Grassley**. Thank you.

Mr. **Bedell**. Mr. Schaefer?

Mr. **Schaefer**. Senator Grassley, one very important figure that came out in that you indicated that only 6 percent of the budget is really open for competitive bidding.

Senator **Grassley**. No, let me tell you. The Defense Department will dispute that. If you can get 20 percent figures from them, if they include negotiated contracts, you can get up to 67 percent. But I'm talking about advertising, and competitively bidding.

Mr. **Schaefer**. How did we come up with that? Was it a search through the——

Senator **Grassley**. The General Accounting Office gave us those figures.

Mr. **Schaefer**. They gave the figures out.

Senator **Grassley**. I can provide you the citation, if you want it, by calling my office.

Mr. **Schaefer**. Thank you.

Mr. **Bedell**. Thank you very much, Senator. You pointed out we didn't have these big deficits when you were in the House. I ought to point out that we had a Democratic administration most of that time, as well.

If I might say so, first of all, I want to really commend you for the work you've done in this area, and we recognize it, and appreciate the great work you've done. I'm not sure this committee however is going to feel that we ought to take 13 years. I think we may want to move a little more rapidly, and I presume you would agree that anything we can do to move more rapidly would be beneficial.

Senator **Grassley**. Yes, very much so. I'm just trying to put it in the context of what ought to be a goal.

Mr. **Bedell**. Sure, good. Well, we again thank you for coming over, and we certainly want to work with you in every way, and appreciate your leadership.

We will ask our panel to return now, if they would. We wish to apologize for interrupting your testimony, but if you think you're in trouble, feel sorry for the poor people who are on panel No. 5, when it's a quarter to 11 now.

Mr. Williams, you may proceed. We ask you to try to keep your testimony as short as you can, and still get your point across.

TESTIMONY OF JON WILLIAMS, PRESIDENT, THE ASSOCIATION OF SOUTHWEST GOVERNMENT CONTRACTORS

Mr. **Williams**. Mr. Chairman, members of the committee, I am Jon Williams, an owner of a small business manufacturing firm, in Arlington, Tex. I'm also president of the Association of Southwest Government Contractors. I am 46 years old today.

Mr. **Bedell**. Congratulations, and happy birthday. We would sing it for you, but some of us are not too good at singing.

Mr. **Williams**. All we want to come from this hearing is competition.

I have had approximately 25 years experience conducting business with the Department of Defense. Sixteen of those years have been in small business; the balance has been with the original equipment manufacturers. I'm an outspoken advocate in small business affairs, and have been very active in the past months challenging the DOD policies that restrict small business competition on Department of Defense procurements of spare parts.

The recent events regarding the overpricing of military spares should provide Congress and the Department of Defense with the incentives to open up the spares market to the competition.

My company was recently involved in a news media event which revealed the overpricing of a plastic cockpit knob being manufactured by the Vought Corp. Some of the articles made reference to our Deputy Secretary of Defense, Paul Thayer, who happens to be the former CEO of Vought Corp.

I want to take this opportunity especially, Mr. Chairman, to denounce those articles, which made reference to Mr. Thayer. I personally know Mr. Thayer to be a man of high integrity. His moral values are beyond reproach, and I can assure you that the Deputy Secretary Thayer will take necessary reprisal actions against any firm—including Vought—who knowingly overprices military spares. Accordingly, and I'm not here today to take issues with how large business firms price their spares. My concern is over the procurement policies of the Government, and the evident lack of control that allows the sole sourcing of items without regard for competition, which would establish a fair market price.

Most of those items could be manufactured by small business firms. In fact, many of the items were produced by small business firms for the original equipment manufacturers.

Small business firms can and do provide, a vital role as prime contractors to the Government. However, recent unnecessary restrictive policies, and overregulation, has restricted many of our firms from being able to compete for those items that they have the ability to manufacture or furnish. A survey of seven firms in our area resulted in an interesting statistic. I might remind the committee that we have a strong defense base in our area, both OEM, and small business, probably one of the strongest in the Nation besides California.

These small business firms, have suffered monthly Government sales decreases of 45 percent collectively when measured against the preceding years monthly sales. These decreases can be directly attributed to the following restrictive policies enacted by the Department of Defense. They are as follows:

One. A controversial L06 clause enacted by the Defense Industrial Supply Center in April 1982. This clause had a devastating effect on small business firms and was rescinded in March 1983 by the Defense Supply Agency at Cameron Station, Va.

Two. The restrictive products offered clause, which replaced the L06, and is presently in effect.

Three. Procurement agency policies on public display, and the quantity of solicitations printed has resulted in limiting the availability of bid sets to our small business firms.

The recent problems created by the unusual swift transfer of procurement responsibilities from the Army, Navy, and Air Force agencies, to the Defense Logistics Agency, has caused havoc within the small business defense community. This transfer of approximately 180,000 line items of military spares, and the inability of the Defense Logistics Agency Centers to control the immense amount of transferred data, and engineering information that is required to procure these items competitively, has become a major issue.

Mr. Chairman, when our small business firms first began to inquire into this issue at the Defense Industrial Supply Center in Philadelphia, which was a recipient of many of these parts, they were faced with complete resistance in their attempts to obtain even any type of information. Meetings with the Defense Logistics Agency Command at Cameron Station, congressional leaders, and a subsequent meeting with the Deputy Secretary of Defense Thayer, was required before we were able to open up the communication between the contractors and the Defense Industrial Supply Agency.

The recent appointment of Gen. Henry Skeen to command that center, and his untiring efforts, has raised the credibility of that center. We have many problems today with that center. Although we do commend General Skeen for his fair and equal treatment of small business firms, we hear rumors that General Skeen is going to be replaced at that agency, and we want DLA to reconsider their actions because we don't want to get back in a different ballgame with a different man. The congressional approval of H.R. 2133, and Congresswoman Boxer's bill, H.R. 3784, certainly would be a contributing factor in establishing additional mandated policy on small business defense issues. However, there are some problems with those bills and they need some amendments.

Any help to small business we will take, I can guarantee you regardless if it does have problems in it. We also applaud the recent Secretary of Defense Weinberger's August 29, 1983 directive on spare parts procurement. This is his 10-point policy enhanced. We hope it doesn't get thrown in the trashcan outside the Pentagon.

His directive, along with the mandatory requirements for the procurement agencies to adhere to existing defense acquisition regulations, on competition is extremely important. The procurement agencies must also be required to take immediate provisions to comply with Public Law 98–72, which is the recent 16-day advertisement on solicitations.

I can assure you gentlemen that when competed the cost of weapon spares will tumble, and the quality and ability to perform will not suffer. The randomly selected items I have with me today will give you an idea how competition effects the pricing of spares. Original equipment manufacturer's names will not be used. These are very simple parts and can be manufactured by most firms in the United States. All these parts are very simple as we were discussing before on this item Mrs. Boxer had, they are not critical in nature. These are access door hinges that get you into an area in the aircraft. If the door came open you wouldn't suffer any problems. These are ground maintenance door hinges.

This is a normal hinge half. It's made in 18 to 72-inch lengths. There's three companies in the United States that make that hinge. It's much like a hinge that you would see at a hardware store, only it's a military standard hinge made out of aluminum.

The hinge length sells for $18. You merely take it and you cut it into lengths. That's all you do to this length. The only difference between the two is the interface; it's very simple.

Prior to competition, this item had a unit price of $11.27 each. The 1978 competitive unit price is $2.47. DOD procures a lot of these specific hinges. It should be noted there's another problem in our DOD system. This item is provided under two different stock numbers. This item is procured under three different stock numbers. They're all the same product; they're all interchangeable.

This item 2 is an OEM procured item through April 1978. The unit price was $91.65 respectively. Competition has now lowered the unit price to $30 on a comparable quantity. It's a machined aluminum part with a bearing pressed in it. The total cost of this part, less the bearing price is the part. The bearing in that part comes to like $6, it is a very noncritical item.

Display item 3 is a filter lens. This is a filter lens that seemingly looks quite complicated, although it's not. This is a metal spun part. It's spun from an aluminum plate. It's slit with a slitting saw. This merely fits over the down-looking radar. It operates much the same as the display on your calculator. It's a dark plastic item that enhances the display at night. This part was being priced by the OEM at $70, and now it's $17 due to competition. Now, this item has been transferred to a DLA center, which I can't locate. I can't even find who the recipient is. I can guarantee DLA will buy this item from the OEM at a price greater than $70.

Display item 4 is a hinge access door. The same problem as we had here, only this is a different situation, it's a different configuration; this is an investment casting. The investment casting makes the part. It's a molded part. It's molded from 17-4 stainless steel, within the capabilities of almost any investment casting house that casts 17-4 stainless.

The contractor merely sets it up on the four points and drills the one hole in; that's all. This part has been bought in quantities of 4,180 each in 1981; 1,000 each in 1982; and 1,300 each up to this month in 1983. The last procurement was made competitively in this year from a small business firm at a unit price of $13.66 each. The OEM's unit price for this item is $36.15. That doesn't sound expensive. It's the quantities you're looking at. Had this part been completed in 1981, the total savings would have been $71,709. That's what the total savings would have been on this item.

Display item 4 is an interesting item. Congresswoman Boxer discussed it. She has the wrong price, gentleman. It's $805, not $850. We don't want to take too much away from the OEM. This is a simple machined aluminum part, by the way. This is within the capability of any manufacturing small business company in the United States like a guy working in his garage who has a milling machine.

Mr. BILIRAKIS. What's the cost of the material that goes into that part?

Mr. WILLIAMS. This part right here?

Mr. BILIRAKIS. Yes.

Mr. WILLIAMS. On aluminum bar you're talking—well, you pay minimum. If you're going to buy a single bar—that part right there would be 60 cents or 50 cents.

Mr. Bilirakis. Less than $1 for the material that goes into that particular item?

Mr. Williams. You'd have to pay minimum cost on the material. Let's say, most of our metal firms charge say a $50 minimum charge just to handle an order. So you can buy a lot of bars for $50, especially aluminum.

This part on top cost 5 cents, by the way. That's a cable tie. That's all it is.

The reason it's configured like this is so it stands off and clears the bulkhead, in other words.

This part is plastic. If it was critical, you would not use plastic, because of the strength. It's a cable tie that goes through this and holds the cable and routes the cable through an aircraft. That's all.

Mr. Bilirakis. I believe Congresswoman Boxer's testimony was the cost was $20 some?

Mr. Williams. My price to manufacture that part, Mr. Congressman, is $25. It could be probably done at a lower price, but I would assume that if it came on the market competitively, and everyone had a shot at it, it would go for $50.

Mr. Bilirakis. For $50? That much?

Mr. Williams. It's according to how many people competed. That's our problem, sir. How much competition do they actually get. We talk about competition, you know. Competition has different forms, you know. You can compete Pratt & Whitney against United Technologies. You're dealing with two different Federal supply codes. The computer only knows Federal supply codes. United Technologies has a different supply code than Pratt & Whitney. You know what happens in the computer? That gets printed over on the ledger as a competitive part. They're just one in the same. See? That's what we get into. We get into a very complex problem when we talk about procurement of weapons spares.

Mr. Bilirakis. And these cost figures of $50, $25, whatever they happen to be, they're based on production line type costs, right? I mean, we're talking about volume?

Mr. Williams. No, sir, they're based on setup costs. These items are not produced in mass quantity, because they're strictly spares. They're bought on quarterly requirements. Item managers inside our major facilities actually compute what the need is for that item, and they place the orders. The Government is like any firm now, they don't put a lot of stock on the shelf, due to the fact that you never know when a weapons system is going to go obsolete, or you never know when a weapons system is going to be EO'd by the OEM to remove that part. And also it ties up dollars.

Mr. Bilirakis. But that's part of the problem, isn't it?

Mr. Williams. Yes, sir.

Mr. Bilirakis. If you had a——

Mr. Williams. If you had a way, and there is a way. They know what the active aircraft are.

Mr. Bilirakis. Forgive me, Mr. Chairman. I hope you don't mind.

Mr. Williams. We know what areas the aircraft which cannot be changed by the OEM. We have some tremendous mechanics even in the Department of Defense such as our onboard Navy ship people who work on airplanes. In 1972 I was on an aircraft carrier as a civilian support team. I was on the *Kitty Hawk* for 9 months during Vietnam as a civilian. I saw the air intermediate maintenance team's work, and believe me they know how to repair aircraft.

I saw airplanes fly under the most adverse conditions. But, we've got to get down to a saneness here. You know, you could buy these on a 2-year procurement if you knew what your usage factor was, and that wouldn't be hard. But, you have that one lump sum obligation of dollars because the contract is merely like a promissory note. It only says we will guarantee to pay you this if you deliver this.

Mr. BEDELL. Excuse me. We do have an awfully long schedule.

Mr. WILLIAMS. OK.

Mr. BEDELL. Could we just summarize your closing here?

Mr. WILLIAMS. OK. Really, Mr. Chairman, that's all I have to say. I feel that, you know, there's been testimony before the Armed Services Committee that the competition can drop the price as much as 50 percent. I just ask the committee, and I address it to the subcommittee, and everyone who represents their constituents in the United States, especially those people who do not understand this complex business of Defense procurement. To allow this to continue, gentlemen, is a total disregard for the very principle that our congressional body was elected to uphold.

That is the wise and prudent use of the taxpayer's dollars.

This concludes my opening comments. I've got a comprehensive report on this for the record, and I'm ready to take any questions.

[Mr. Williams' prepared statement follows:]

[See appendix A for additional material submitted for the record.]

PREPARED STATEMENT OF JON WILLIAMS, PRESIDENT, ASSOCIATION OF SOUTHWEST GOVERNMENT CONTRACTORS

I AM JON WILLIAMS, AN OWNER OF A SMALL BUSINESS MANUFACTURING FIRM IN ARLINGTON, TEXAS. I AM ALSO PRESIDENT OF THE ASSOCIATION OF SOUTHWEST GOVERNMENT CONTRACTORS. I AM 46 YEARS OLD TODAY AND HAVE HAD APPROXIMATELY 25 YEARS EXPERIENCE IN CONDUCTING BUSINESS WITH THE DEPARTMENT OF DEFENSE. SIXTEEN OF THESE YEARS HAVE BEEN IN SMALL BUSINESS AND THE BALANCE WITH THE ORIGINAL EQUIPMENT MANUFACTURERS.

I AM AN OUTSPOKEN ADVOCATE IN SMALL BUSINESS AFFAIRS AND HAVE BEEN VERY ACTIVE IN THE PAST MONTHS CHALLENGING THE DOD POLICIES THAT RESTRICT SMALL BUSINESS COMPETITION ON DEPARTMENT OF DEFENSE PROCUREMENTS OF SPARE PARTS.

THE RECENT EVENTS REGARDING THE OVERPRICING OF MILITARY SPARES SHOULD PROVIDE CONGRESS AND THE DEPARTMENT OF DEFENSE WITH THE INCENTIVES TO OPEN UP THE SPARES MARKET TO COMPETITION.

MY COMPANY WAS RECENTLY INVOLVED IN A NEWS MEDIA EVENT WHICH REVEALED THE OVERPRICING OF A PLASTIC COCKPIT KNOB BEING MANUFACTURED BY THE VOUGHT CORPORATION. SOME OF THE ARTICLES MADE REFERENCE TO DEPUTY SECRETARY OF DEFENSE PAUL THAYER WHO HAPPENS TO BE THE FORMER CHIEF EXECUTIVE OFFICER OF VOUGHT CORPORATION. I WANT TO TAKE THIS OPPORTUNITY TO DENOUNCE THOSE ARTICLES WHICH MADE REFERENCE TO MR. THAYER. I PERSONALLY KNOW MR. THAYER TO BE A MAN OF HIGH INTEGRITY AND HIS MORAL VALUES ARE BEYOND REPROACH. I CAN ASSURE YOU THAT DEPUTY SECRETARY THAYER WILL TAKE NECESSARY REPRISAL ACTIONS AGAINST ANY FIRM (INCLUDING VOUGHT CORP.) WHO KNOWINGLY OVERPRICES MILITARY SPARES.

ACCORDINGLY, I AM NOT HERE TODAY TO TAKE ISSUES WITH HOW LARGE BUSINESS PRICES THE SPARES. MY CONCERN IS OVER THE PROCUREMENT POLICIES OF THE GOVERNMENT AND THE EVIDENT LACK OF CONTROL THAT ALLOWS THE SOLE SOURCEING OF ITEMS WITHOUT REGARD FOR COMPETITION WHICH WOULD ESTABLISH A FAIR MARKET PRICE. MOST OF THOSE ITEMS COULD BE MANUFACTURED OR FURNISHED BY SMALL BUSINESS FIRMS. IN FACT, MANY OF THE ITEMS WERE PRODUCED BY SMALL BUSINESS FOR THE ORIGINAL EQUIPMENT MANUFACTURERS.

SMALL BUSINESS FIRMS CAN AND DO PROVIDE A VITAL ROLE AS PRIME CONTRACTORS TO THE GOVERNMENT. HOWEVER, RECENT UNNECESSARY PROCUREMENT POLICIES AND OVER REGULATION HAS RESTRICTED MANY OF OUR FIRMS FROM BEING ABLE TO COMPETE FOR THOSE ITEMS THAT THEY HAVE THE ABILITY TO MANUFACTURE OR FURNISH.

A SURVEY OF SEVEN FIRMS IN OUR AREA RESULTED IN AN INTERESTING STATISTIC. THESE FIRMS HAVE SUFFERED MONTHLY GOVERNMENT SALES DECREASE OF 45.3% COLLECTIVELY WHEN MEASURED AGAINST THE PRECEDING YEARS MONTHLY SALES.

THESE DECREASES CAN BE DIRECTLY ATTRIBUTED TO THE FOLLOWING RESTRICTIVE POLICIES ENACTED BY THE DEPARTMENT OF DEFENSE. THEY ARE AS FOLLOWS:

1. THE CONTROVERSAL "L06" CLAUSE ENACTED BY THE DEFENSE INDUSTRIAL SUPPLY CENTER IN APRIL OF 1982. THIS CLAUSE HAD A DEVASTING EFFECT ON SMALL BUSINESS FIRMS AND WAS RECINDED IN MARCH OF 1983 BY THE DEFENSE SUPPLY AGENCY HEADQUARTERS IN CAMERON STATION.

2. THE RESTRICTIVE "PRODUCTS OFFERED CLAUSE" WHICH REPLACED THE "L06" CLAUSE AND IS PRESENTLY IN EFFECT.

3. PROCUREMENT AGENCY POLICIES ON PUBLIC DISPLAY AND THE QUANTITY OF SOLICITATIONS PRINTED HAS RESULTED IN LIMITING THE AVAILABILITY OF BID SETS TO OUR SMALL BUSINESS FIRMS.

4. THE RECENT PROBLEMS CREATED BY UNUSUAL SWIFT TRANSFER OF PROCUREMENT RESPONSIBILITIES FROM THE ARMY, NAVY AND AIR FORCE AGENCIES TO THE DEFENSE LOGISTICS CENTERS HAS CAUSED HAVOC WITHIN THE SMALL BUSINESS DEFENSE COMMUNITY. THIS TRANSFER OF APPROXIMATELY 180,000 LINE ITEMS OF MILITARY SPARES AND THE INABILITY OF THE DEFENSE LOGISTICS AGENCIES CENTERS TO CONTROL THE IMMENSE AMOUNT OF TRANSFERRED DATA AND ENGINEERING INFORMATION THAT IS REQUIRED TO PROCURE THOSE ITEMS COMPETITIVELY HAS BECAME A MAJOR ISSUE. WHEN OUR SMALL BUSINESS FIRMS FIRST BEGAN TO INQUIRE INTO THIS ISSUE AT THE DEFENSE INDUSTRIAL SUPPLY CENTER IN PHILADELPHIA, THEY WERE FACED WITH COMPLETE RESISTANCE IN THEIR ATTEMPTS TO OBTAIN INFORMATION. MEETINGS WITH THE DEFENSE LOGISTICS AGENCIES COMMAND AT CAMERON STATION, CONGRESSIONAL LEADERS AND A SUBSEQUENT MEETING WITH DEPUTY SECRETARY OF DEFENSE THAYER, WERE REQUIRED BEFORE WE WERE ABLE TO OPEN UP THE COMMUNICATION BETWEEN THE CONTRACTORS AND THE DEFENSE INDUSTRIAL SUPPLY CENTER AGENCY. THE RECENT APPOINTMENT OF GENERAL HENRY SKEEN TO COMMAND THAT CENTER AND HIS UNTIRING EFFORTS IN THE RESOLVEMENT OF ISSUES WITH SMALL BUSINESS HAS CERTAINLY RAISED THE CREDITABILITY OF THAT CENTER. ALTHOUGH WE PRESENTLY HAVE MANY PROBLEMS WITH THAT CENTER, WE DO COMMEND THE GENERAL FOR HIS OPEN AND FAIR TREATMENT OF SMALL BUSINESS FIRMS. I HEAR UNCONFIRMED RUMORS THAT GENERAL SKEEN WILL SOON BE REPLACED AT THE DEFENSE INDUSTRIAL SUPPLY CENTER AGENCY, AND I APPEAL TO THE DEFENSE LOGISTICS AGENCY TO RECONSIDER THIS ACTION AT THIS TIME.

THE CONGRESSIONAL APPROVAL OF HR2133 AND CONGRESSWOMAN BOXERS HR3784 CERTAINLY WOULD BE A CONTRIBUTING FACTOR IN ESTABLISHING ADDITIONAL MANDATED POLICY ON SMALL BUSINESS DEFENSE ISSUES.

WE IN SMALL BUSINESS ALSO APPLAUD THE RECENT SECRETARY OF DEFENSE WEINBURGER AUGUST 29,1983 DIRECTIVE ON SPARE PARTS PROCUREMENT. HIS DIRECTIVE ALONG WITH MANDATORY REQUIREMENTS FOR THE PROCUREMENT AGENCIES TO ADHERE TO EXISTING DEFENSE ACQUISITION REGULATIONS ON COMPETITION IS EXTREMELY IMPORTANT. THE PROCUREMENT AGENCIES MUST ALSO BE REQUIRED TO MAKE IMMEDIATE PROVISIONS TO COMPLY WITH PUBLIC LAW 98-72.

I CAN ASSURE THAT WHEN COMPETED, THE COST OF WEAPONS SPARES WILL TUMBLE AND THE QUALITY AND ABILITY TO PERFORM WILL NOT SUFFER.

THE RANDOMLY SELECTED SAMPLES THAT I HAVE WITH ME TODAY WILL GIVE YOU AN IDEA HOW COMPETITION AFFECTS THE PRICING OF SPARES. ORIGINAL EQUIPMENT MANUFACTURERS NAMES WILL NOT BE USED.

DISPLAY ITEM NUMBER ONE IS A HINGE HALF, MANUFACTURED FROM ALUMINUM AND USED ON AN ACCESS DOOR INTO AN AIRCRAFT WING SECTION. THIS PARTICULAR ITEM BECAME COMPETITIVE IN 1978. PRIOR TO ITS COMPETITIVE STATUS IT WAS A SOLE SOURCE ITEM TO THE ORIGINAL EQUIPMENT MANUFACTURER. THE OEM'S UNIT PRICE WAS $11.27 EACH. THE 1978 COMPETITIVE UNIT PRICE WAS $2.47 EACH ON A COMPARABLE QUANTITY. IT SHOULD BE NOTED THAT THIS ITEM IS PURCHASED UNDER TWO DIFFERENT STOCK NUMBERS, WHILE THE MATING PART IS BEING PURCHASED UNDER THREE DIFFERENT STOCK NUMBERS.

DISPLAY ITEM NUMBER TWO WAS AN OEM PROCURED ITEM THROUGH APRIL 1978 AT UNIT PRICES OF $91.00 AND $65.00 RESPECTIVELY. COMPETITION HAS NOW LOWERED THE UNIT PRICE TO $30.00 ON A COMPARABLE QUANTITY.

DISPLAY ITEM NUMBER THREE IS A FILTER LENS, COMPETITION HAS LOWERED THE UNIT PRICE ON THIS ITEM FROM $70.00 EACH TO A LOW OF $17.00 EACH. THE LAST PROCUREMENT WAS MADE AT A SERVICE ACTIVITY AND I ASSUME THE ITEM HAS NOW BEEN TRANSFERRED TO SOME DLA CENTER. I CAN ASSURE YOU THAT THE PROCUREMENT PRICE WILL BE IN EXCESS OF THE PREVIOUS UNCOMPETED PRICE OF $70.00 EACH IF DLA DOES NOT COMPETE THE ITEM.

DISPLAY ITEM NUMBER FOUR IS A ACCESS DOOR HINGE. THIS ITEM WAS PROCURED IN QUANTITIES OF 4,180 EACH IN 1981, 1,000 EACH IN 1982 AND 1,300 EACH UP TO THIS MONTH IN 1983. THE LAST PROCUREMENT WAS MADE COMPETITIVELY IN THIS YEAR FROM A SMALL BUSINESS FIRM AT A UNIT PRICE OF $13.60 EACH. THE OEM'S UNIT PRICE FOR THIS ITEM IS $36.15 EACH BASED ON A COMPARABLE QUANTITY. COMPETITION ALLOWED A SAVINGS OF $22.55 PER ITEM AND A TOTAL CONTRACT SAVINGS OF $29,315.00 ON THE LAST CONTRACT. IF THIS ITEM HAD BEEN COMPETED IN 1981, COMPETITION WOULD HAVE SAVED THE GOVERNMENT $71,709.00 ON THIS ONE ITEM.

DISPLAY ITEM NUMBER FIVE IS A INTERESTING ITEM. THIS ITEM HAS A VERY NON-CRITICAL APPLICATION AND IS MACHINED FROM ALUMINUM BAR. MY COST TO PRODUCE THIS ITEM EXCLUDING PROFIT WAS $25.00 EACH. THE OEM WAS PAID IN EXCESS OF $800.00 EACH FOR THIS PARTICULAR ITEM IN SEPTEMBER OF 1982.

THE EXAMPLES DISPLAYED HERE REPRESENT ONLY FIVE ITEMS OUT OF THE MILLIONS OF SPARES ITEMS PROCURED EACH YEAR BY THE DEPARTMENT OF DEFENSE. THE HOUSE ARMED SERVICES COMMITTEE HAS RECENTLY HEARD TESTIMONY FROM A DEPARTMENT OF DEFENSE LOGISTICS EXPERT WHO STATED THAT WHEN SPARES ARE COMPETED THE OVERALL PRICE NORMALLY DROPS AS MUCH AS 50%. I COULD BRING MANY ITEMS BEFORE YOU THAT HAVE SIMILAR PRICING DISPARITIES, HOWEVER I FEEL THAT THE CASE HAS BEEN MADE FOR COMPETITION AND MORE EXAMPLES OF OEM OVER-PRICING AND NEWS MEDIA REPORTS WOULD ONLY RESULT IN EXPLOITING THOSE FIRMS WHICH HAVE NO INVOLVEMENT IN THESE ISSUES.

MR. CHAIRMAN, I ASK YOU AND THE MEMBERS OF THIS COMMITTEE WHY IS THE DEPARTMENT OF DEFENSE ALLOWED TO CONTINUE PROCUREMENT OF A MAJORITY OF THE SPARES ITEMS WIHTOUT REGARD FOR COMPETITION. TO ALLOW THIS TO CONTINUE WILL SHOW A COMPLETE DISREGARD FOR THE VERY PRINCIPLES THAT OUR CONGRESSIONAL BODY WAS ELECTED TO UPHOLD. "THE WISE AND PRUDENT USE OF THE TAXPAYERS DOLLARS."

THIS CONCLUDES MY TESTIMONY. A MORE COMPREHENSIVE REPORT HAS BEEN SUBMITTED FOR THE RECORD.

Mr. **Bedell**. Thank you, Mr. Williams. Mr. Britt?

Mr. **Britt**. Mr. Rankin, one of the things that we've talked about a lot here is the competitive side of it in terms of pricing. What about the lead times, with small business versus the OEM's or small OEM's? Would you comment on how lead times would be affected if we had more small business involved in providing these spare parts?

Mr. **Rankin**. Absolutely. First of all, understand that a General Electric, or a Pratt & Whitney, or a Sunstrand, or a Woodward Governor, or a Boeing, or LTV, or who ever might be involved as an OEM on a major weapon system procures probably more than 90 percent of the components that go into its weapon systems from other people. They do not manufacture nuts and bolts, they do not manufacture gaskets, they do not manufacture O-rings, they do not manufacture shims, they do not manufacture nameplates, they do not manufacture thousands and thousands and thousands of items that go into those systems. A small business does.

The only thing that company does is define the configuration of a product in a drawing. It defines the manufacturing processes that are involved in making that part. By the way, it has probably been paid for that through the engineering phase of the development of that system. It then takes that information which it has developed and which it has been paid for, it sends it out to a multitude of other sources to get prices, it negotiates the best price it can, it brings the parts in, runs it through a quality control system and uses it in the finished product.

A small business is no different. A small business takes the product, manufactures it from a drawing. It can also run that material through the same quality control system, identically the same quality control system because those quality control systems are specified in terms of military standards.

Every Government contractor is either operating under a MIL–Q 9858 inspection system or a MIL–I 45208 inspection system. Anyone who has the specification can comply.

Now, the leadtimes. I can give you a hundred examples of products that are currently being supplied by the OEM. It's proprietary sole source parts in the magnitude of 10, 12, 15 to 20 months lead time where that identical product is available from its true manufacturer in 6 to 10 weeks. Leadtime is not a factor; lead time will be improved.

Mr. **Bedell**. Well, in fact, that's another argument to buy directly from the manufacturer.

Mr. **Rankin**. Absolutely.

Mr. **Bedell**. We've sketched the parameters this morning of the problem or at least the tension in trying to make it competitive. Congressman Ray mentioned earlier the concern for quality and I think as we try to move toward solutions of these problems, we've got to work within that framework on the one hand of being competitive and on the other hand of making sure that we have top quality.

I'd be interested in your comments, Mr. Williams, on what Mr. Rankin has said how he feels about quality.

Mr. **Rankin**. You know, like he says, the small business firms have the same quality systems as the major OEM's. In fact, if you make a part for a major OEM, it merely goes through a receiving inspection process used. Very rarely, do many OEM's anymore run source inspection.

We have a network of facilities throughout the United States called DCASR, and they, in turn, have DCASMA offices.

I'd say a majority or 90 percent of our firms have DCASMA Government inspectors in their facilities every week.

The Air Force, the Army, the Navy utilize these people to accept those parts at the origin. It's at source that they inspect them.

They lay the drawing down. They have a quality system which you must comply with. I do not buy the allegations that small business gets more returns or UR's from the field. UR's or unsatisfactory reports from the field come in very different connotations.

It could be that they put the part on the aircraft row. They have no need for it. They checked it out and some guy in the service checked it out, he's got to get back in supply, and he may write a QDR on it, a quality deficient report which may come back through.

The OEM's suffer the same problem. They suffer the same problem. But, there is a system that provides for quality and it's set up by the U.S. Department of Defense that they must utilize.

Mr. **Bedell**. So, the bottom line is, both of you are saying that you can supply equal quality, lower cost and faster with less lead time?

Mr. **Rankin**. Absolutely. Another point I'd like to make just for fun here.

One of the problems that the Government gets into in cost has to do with complexity of specifications. I've put together a little handout here I'd like you to take.

You'll find here properly packaged in a triple LP-378 heat sealed bag and adequately marked with a milstandard 189 bar code, a nut acorn, oak pin decapped ground recovered, one each, which we just would submit to you that the cost of that nut, obviously, is zero, but the packaging is 8 cents. If you would envision the hundreds of millions of products that are procured every day, every single item is individually packaged and marked like that.

Mr. **Bilirakis**. That's the result of the specification that requires it to be a packaged that way?

Mr. **Williams**. This is the new concept by the DOD that everyone had to be subjected to the bar code labeling system like in the grocery stores.

However, we get into very complex machines. I think you have one, Tom. What did you pay for your bar coding machine?

Mr. **Rankin**. Well, it depends. There are a number of printers which are available to produce this product, the cheapest of which is about $10,000.

Mr. **Williams**. To buy a machine that will do this label which you must have——

Mr. **Rankin**. In volume.

Mr. **Williams**. In volume. Now, this label does not tell you what or how many's in that bag. OK, the reason for the bar code label is for a guy in a warehouse to go out there with a pin-like reading system and go across that and see what that stock number is. But, now, a concept is wrong. That tells you what's in the bin. They know what's in the bin. They just don't know how many, you see.

That bar code doesn't say anything about quantity. They've got to individually count them to know how many's in the bin.

Mr. **Bedell**. Mr. Addabbo.

Mr. **Addabbo**. Thank you, very much, Mr. Chairman. First of all, to Mr. Williams, a happy birthday.

Mr. **Williams**. I appreciate that, sir.

Mr. **Addabbo**. You've given the Government a birthday present by being here and taking your valuable time to give us your testimony. You point out a very serious defect in our defense procurement systems when you speak about quantities because so often we find that we're selling items as surplus at one end, and then we're buying them at the other end, due to lack of the part and inappropriate coding.

Mr. **Williams**. It's called lack of control, sir.

Mr. **Addabbo**. I just want to say this to you, Mr. Rankin and Mr. Williams, and to the other business witnesses and I would ask the chairman to agree with me on this.

Quite often when men of your caliber who deal every day with the Government come before a committee and testify and give information, suddenly, when they go back to deal with the Government again they find themselves harassed.

There is a possibility of a strong case of that going on right now under investigation by the committee and outside investigators. If that should happen to you gentlemen or anyone testifying here today, they should immediately notify the chairman and myself, as chairman of the Defense Appropriations Committee, and it will be quickly and properly dealt with.

Thank you, Mr. Chairman.

Mr. **Bedell**. Thank you, Mr. Addabbo. Mr. Bilirakis.

Mr. **Bilirakis**. Well, I know I've used a substantial portion of my time, Mr. Chairman. I'd like to ask Mr. Rankin, what is this used for?

Mr. **Williams**. He doesn't know. [Laughter.]

Mr. **Rankin**. I don't want it to have any inferences. It's just something to identify the scope of the packaging that we're currently working with.

Mr. **Bilirakis**. OK. But it is not used in an airplane?

Mr. **Rankin**. No; it's not used——

Mr. **Bilirakis**. I just would finish up, sir, by saying that I personally even have a hard time accepting a $25 cost for that little part there. It just blows my mind.

Thank you, very much.

Mr. **Bedell**. Mr. Olin?

Mr. **Olin**. Gentlemen, I apologize for missing your testimony and I hope my question here is not redundant from what you've already covered.

But, I'm just curious from having been in industry for a long time. I've been a supplier of parts and purchaser of parts, and I understand exactly what you're talking about.

It's incredible to me that the purchasers in the Defense Department would not have adopted good purchasing practices and want to break down the proprietary thing, want to break down the sole source of protection that manufacturers who try to build up. In your experience, you must have been trying to break down this yourself. What kind of roadblocks are you running into, and how long have you been at that, and what do you think the basic problem is as to why the purchasers don't open up and do what you and I, as businessmen, would recognize as being good purchasing?

Mr. RANKIN. Well, it's very simple. In a Government environment, profit is not an objective, and cost is not an objective, but risk is.

In a commercial environment, there is always a tradeoff between cost and risk.

In a Government environment, there is no need to make a tradeoff or hasn't been until now. As a result, there has been no tradeoff and cost is of no consideration so therefore the consideration becomes that we will take no risks, we will make no decisions, we will pawn off the decision to the original manufacturer, we will not identify the problem, it's easier that way, and there's no risk. That's the problem.

Relative to this value engineering thing that I talked about earlier, I'd just like to give you a couple of examples. We have a contract now for a filter kit which is used on the Army's 2½-ton truck.

The Army uses about 150,000 of these kits per year. It has a filter similar to an automotive oil filter, a couple of gaskets, a couple of cotter pins. This gasket on here was sole source. A price was $1.52. We submitted a value engineering change proposal on that item, got the Army to delete that item as a sole source item and change the cost to 3 cents.

The savings over a 3-year period on that item, just on that item, is $238,000, on that gasket.

Mr. OLIN. Mr. Rankin, as you go up the hierarchy in trying to break this down and get in, do you find any level in the hierarchy where you've got a reasonable hearing?

Mr. RANKIN. I'd have to say no.

Mr. WILLIAMS. There is no decisionmaking level, right, Tom?

Mr. RANKIN. Yes; there is no decisionmaking level.

Here's another example: These were three parts that are used on a filter change area of the J-79 engine. It's been in existence for 25 years as the sole source for all three parts.

In fact, the two O-rings are standard O-rings. In fact, the little pop assembly can be manufactured by any number of half dozen sources who specialize in that type of product.

Again, we submitted drawings, data that could be used for competitive procurement of that item under a value engineering change proposal, and on the initial contract which included a kit of about 40 items. These three parts reduced the cost of that kit by $60,000, $60,000 on the original contract value of $122,000. Over a 3-year period, we saved the Government almost $100,000 on those three parts.

Mr. OLIN. You're basically saying then, that if we could figure out some way to put those people at risk, then we might have a chance of getting at this subject and then develop——

Mr. RANKIN. There's no question about it. That's what this legislation is all about. To try to create some pressure to put some of the people who have the ability to do something about it into a position where they can make some decisions.

Mr. **Williams**. Mr. Congressman, as of a week ago, we now have 78 breakout specialists assigned to Tinker Air Force Base, and that decision came from Secretary Orr, and came on real fast as a result of Senator Tower's hearings and the subcommittee hearings.

You know they are always one step ahead of a hearing, evidently. I find the political arena this way: When I get into it, I find that they can always come before a committee and say we did that a month ago, you know. So, we are definitely accomplishing something because they are and they do have the breakout specialists on hand. Now, they need funding.

Thank you, very much Mr. Chairman.

Mr. **Bedell**. Thank you. Mr. Ireland.

Mr. **Ireland**. Thank you, Mr. Chairman. Gentlemen, a year or so ago, we had some hearings about a rule proposed by the FAA which would virtually wipe out small business in the aircraft industry parts. One of the things that came out of that hearing in the pricing operation between the original equipment manufacturers and the small ones was that there's yet another price level. We found that the original equipment manufacturer had not only a substantially higher price than the PMA, but had a different price, a lower price for a commercial aviation than they did for the Defense Department.

In your experience, does this same kind of thing where the original equipment manufacturer has a different price for commercial use than Defense Department use happen in other areas beside what we found in aircraft manufacturing?

Mr. **Williams**. I couldn't speak of that.

Mr. **Rankin**. I could not speak to that. We do not do any business in the commercial sector, and I would have no way of commenting on that.

Mr. **Ireland**. Thank you.

Mr. **Schaefer**. Let me understand correctly has this LO-6 clause been removed now and it's been replaced by the restrictive——

Mr. **Williams**. It's been replaced by the products offered clause. During this transfer which is a debate, and I personally, I shouldn't make this statement, but what we have found ourselves caught between a service fight as to who is going to procure the items, the services or DLA, you know.

I think we've been able to open up the information cycle where DLA and the services are beginning to cooperate more and I understand there's been some pretty heavy hands at the Pentagon level that say they are going to cooperate with DLA since DLA is a commonality buying activity for all services.

Prior to that, the services bought items like this themselves. The drawings somehow got displaced. However, the Air Force facility was competing this on open competition. If it goes to DLA, they don't have the drawings. We asked DLA, where's the drawings? We didn't get any drawings. We called the service activity. We sent them the drawings. You see, we're in a dilemma. We don't know what to do.

Mr. **Schaefer**. How long has DLA been doing this as a cooperative thing?

Mr. RANKIN. DLA has been doing it for 20 years. No, the transfer?

Mr. SCHAEFER. Yes.

Mr. WILLIAMS. The transfer happened so fast—and I was told by Captain Austen of the U.S. Navy who is the director of contracts at Cameron Station—that this was the most well-planned transfer of material in the history of man. The computer tapes wouldn't even interface.

Mr. SCHAEFER. Who is the final word on the decision on which products, which items are on the restrictive clause? Where does this finally come down to? Where does the watch stop?

Mr. WILLIAMS. We have what is known as the PMC code. It's a procurement management code which is assigned by the logistics efforts of the OEM and/or the engineers of the services. It's coded in a way, like this item would carry like a two G code. It is open data. It's there for competition.

Mr. RANKIN. Again, this coding process is a very complex issue. It would take hours to try to explain, but understand that there is a process which goes on when the system is accepted, the weapon system is accepted, there's a process that goes on between the prime manufacturer and the Government wherein they go through the spare parts or the parts list in that weapon system and identify the criticality or competitiveness of each individual component.

The OEM has a lot to do with establishing what the code is on that item. And, that PMC code, or procurement method code identifies how that item is going to be procured from that day forward.

Mr. BRITT. Well, gentlemen, with the proprietary rights as the key to the issue, isn't the provisioning process the time in which you win or lose that ballgame?

Mr. RANKIN. That's exactly right. As a matter of fact, there are provisions provided in DAR wherein a prime manufacturer submits a drawing with a proprietary stamp on it.

The Government has the obligation to challenge that proprietary position. In DAR it states that the OEM, the prime manufacturer must show "clear evidence that item was developed at private expense." In reality, that challenge rarely ever occurs, rarely ever occurs.

Mr. SCHAEFER. One final question.

Mr. Rankin, have you suggested to DOD that they implement this new program on VECP and if so, what's the reaction?

Mr. RANKIN. Thank you for asking that question. Two years ago, I presented this program in the Pentagon in Gen. Martin Fulcher's office, and promised the general through our meager efforts we would guarantee the Air Force an annual savings of $10 million by doing this value engineering that we were suggesting.

The general made the comment, "I don't see how we can afford not to take you at your word and give it a try." That was 2 years ago. We are still fighting to get that program implemented.

It is currently in Lloyd Moseman's office. I believe Lloyd Moseman understands the necessity for the program. He is in favor of the program. At the moment, it has not been enacted.

Mr. SCHAEFER. Thank you, Mr. Rankin.

Thank you, Mr. Chairman.

Mr. Addabbo. I would ask the gentleman, Mr. Rankin, if you would, sometime after today, go down to room H–144 and speak to Bob Davis and give him the information. He's my staff person on Defense Appropriations Committee. Maybe we can build a fire under them.

Mr. Rankin. Thank you.

Mr. Addabbo. Thank you.

Mr. Bedell. Thank you. Mr. Sisisky.

Mr. Sisisky. Mr. Chairman, I wasn't here for the testimony which I apologize for. I just want to ask one question. Did the Department of Defense ever bring up warranties on equipment manufactured to you on that?

Mr. Rankin. Sure. In the area of warranty, the Government does not purchase warranty. The Government is self-insuring.

It does define obligation relative to defective material, and any contractor who is operating under DAR regulations operates under exactly the same criteria and that is, if it's defective, you're responsible for replacing it. It doesn't make any difference whether that's PRAT or whether that's us.

Mr. Sisisky. I'm talking about an aircraft engine. If someone else puts a part on the engine and the engine goes bad, how long does the warranty cover the engine for an airplane?

Mr. Rankin. There is no warranty on an airplane engine.

Mr. Sisisky. So the argument that the engine could be in warranty is not valid; is that correct?

Mr. Rankin. There is no warranty on an engine. The Government does not purchase warranty. It's self-insuring.

Mr. Sisisky. Thank you.

Mr. Bedell. Mr. Ray, do you want to yield to Addabbo?

Mr. Ray. Yes.

Mr. Addabbo. On the new bids, companies now are giving warranties. PRAT did give a warranty as part of their bid on the upgrade of the 100 engine. They are now giving warranties. We are now holding them responsible under the warranty.

Mr. Rankin. For what length of time is the warranty?

Mr. Addabbo. They're giving warranties for so many thousands of hours. I don't recall the number. It's not for years; it's the number of hours that the engine will operate. We're trying to get as many warranties as possible.

However, we haven't been enforcing them. I think this committee held hearings on warranties. In the past, we had not enforced them, but we will begin to enforce them.

Mr. Bedell. Mr. Ray?

Mr. Ray. Thank you, Mr. Chairman. Mr. Williams, and Mr. Rankin, I'm sorry it was necessary for some of us to be gone to hear the President of Germany address a joint session of Congress, but I was interested in your comments, Mr. Rankin, on leadtime.

Now, is there a standard percentage of increase in cost when lead time occurs?

Mr. Bedell. Excuse me, Mr. Ray. Could we check with the subcommittee? The administrator of the Small Business Group has been waiting for some time.

It's quite obvious we're not going to get through before noon. We have two more panels plus the Small Business Administration people here.

What would be the wishes of the subcommittee? When we get through with this panel would you like to adjourn until 1 or 1:30.

Mr. Sisisky. 1:30.

Mr. BEDELL. Is 1:30 agreeable to the committee?

[General assent was given.]

Mr. BEDELL. OK. Without objection, we will take the people here from the Small Business Administration after this group and then we will adjourn until 1:30 this afternoon. Excuse me for the interruption, Mr. Ray. Go ahead.

Mr. RAY. Thank you, Mr. Chairman. My question is the cost of long lead time contracts is probably a sizable amount of money?

Mr. RANKIN. Normally, longer lead items are the more expensive items.

Mr. RAY. OK. I make it a policy whenever I can, whenever I'm in a defense base, to get into the procurement office and talk to some of the lower level procurement people.

One of the biggest complaints that they have is usually a large stack of priority purchase orders on the desk which they complain has come in some 30 to 60 days after the long leadtime order was given.

Is it conceivable to think that possibly some of these long lead items are really in stock when we negotiate the calls?

Mr. RANKIN. Inventory is a function of product activity, and in our business, for example, there are many long lead items which we inventory for you, for the Government, because there is a long history of procurement of the item, as a fairly predictable usage factor, and we assume the risk of prereleasing that material into production to have it available in inventory.

Mr. RAY. So, you would charge the long leadtime cost for that, for carrying it in stock. Is that what you're telling me?

Mr. RANKIN. We do not price our material out that way. We operate in a competitive environment. So, the stocking of material, prereleasing of material, into production serves only one purpose and that is that it attempts to put us in a more competitive position with our competitors so that we will have the material available either at a lower cost or a shorter leadtime and we then mark that material up on raw material cost and take a standard markup. That's not the way the OEM works.

Mr. RAY. I see. It seems to me, Mr. Chairman, that's an area that ought to be dug into very seriously at that level, the local defense based procurement level where the discretion, the long leadtime purchases sometimes is made at a lower level, isn't that correct?

Mr. WILLIAMS. It would have to be made at an ALC level or——

Mr. RANKIN. Are you talking about multiyear procurement type situations?

Mr. RAY. No, just ordinary items. Engine parts or items that come up.

Mr. RANKIN. I think part of the procurement planning process could very well involve forecasting requirements and procuring those items over a longer leadtime in incremental quantities or something like that which would tend to lower the cost and make the material available more predictably.

Mr. **Ray**. Well, thank you, sir.

Mr. **Bedell**. Thank you, Mr. Ray. Mr. Williams, the part that Mr. Bilirakis—I agree with him, I can't imagine the $25 cost.

I guess my question on that is, do you know, do they buy quite a number of those or is that a very, very limited purchase?

Mr. **Williams**. That's about a 10-part purchase.

Mr. **Bedell**. OK. I guess my question——

Mr. **Williams**. You're talking $65,000 from what I understand.

Mr. **Bedell**. OK. My question is, if that were a part that was used in sufficient quantities, and if I were a possible supplier, and if I could, instead of machining that part, cast the part, and if it would serve the purpose just as well, do I have an opportunity to say to the Department of Defense, look, if you'll give me an order for 500 or 1,000 whatever it is, I'll make them for you for $5 and if I do that, is that considered—my question is, in private business that would certainly be that way.

Mr. **Williams**. Well, here's what happens. When the item manager, the inventory manager actually pulls out of the computer the inventory level she or he needs to go make a buy for inventory. Then, that goes through a process which goes up to procurement. When the procurement officer or the buyer gets that on their desk in the form of a procurement PR, procurement request, they go on the street for it.

Now, let's say the item manager says, I need a hundred, and here comes a contractor in that's offering to give them 500. I would say in 99 percent of the cases, you wouldn't even be considered because they'd say, well, we only want to buy 100.

What is your price for 100? They stay with that. Now, if you came in at some ridiculous low prices, or if you attempted to have that part changed to a casting, then, you've got to go through a process which would take 2 to 3 months.

Mr. **Bedell**. OK. But, I could submit, if I wanted to, a proposal——

Mr. **Williams**. You could submit anything you want to the Government.

Mr. **Bedell**. I could submit a proposal to the Department of Defense that said it appears to me that this is a part in which a casting would serve just as well as the machine part and I can produce such a part for approximately $5.

Mr. **Rankin**. That's a value engineering change proposal. That is exactly what we're talking about.

Mr. **Williams**. You're not responding to the contract as it is, I mean the solicitation as it is put out on the street. That's what you're not doing.

Mr. **Rankin**. The only problem is that right now the only time that a value engineering change proposal would apply is if you have a contract for that item already and the value engineering change proposal clauses are included in the contract.

If you do not have a contract, you cannot submit a proposal for that item, and if the clauses are not in the contract, you will not get paid for that submission.

Mr. **Bedell**. Why?

Mr. RANKIN. That's my question.

Mr. BEDELL. We're trying to write legislation and trying to correct things. Would it not make sense in the legislation to say that anybody will be permitted to offer a value engineering change proposal? Is there any reason we should not?

Mr. RANKIN. In the written remarks, that's what we have said. Also, I have some informal comments relative to value engineering which I can leave with you. They're just some rough draft statements about value engineering, a description of what it is and what it should do.

Mr. BEDELL. But you would know of no reason why we should not legislate that anybody should be eligible to submit value engineering change proposals?

Mr. RANKIN. We are urging exactly that posture.

Mr. BEDELL. You bet.

Mr. BRITT. Well, gentlemen, if you've already got the contract, what incentive is there to submit a value ECP?

Mr. RANKIN. Well, of course, the incentive is that if you have obtained a contract for a given item based on the specifications which are supplied with that contract, and then come up with a different or a better way or a different source than what is identified in the contract, you may then submit that information, it could be a reduced situation, and you would submit that information to the contracting officer that he might allow you to use that other information, the lower costing situation.

Mr. BRITT. But, the real incentives would be first to the contractors that don't have the contract and that's prohibited right now.

Mr. RANKIN. Absolutely.

Mr. BEDELL. Are there any further questions? If not, we certainly appreciate hearing the testimony from all of you, and thank you very much. The Chair would like to check with the three people that we had scheduled yet for this morning. Mr. Otero. Mr. Engfer, and Mr. Miller, if you're in the room here, do you folks have problems with coming back at 1:30? Any of you?

[Pause.]

Mr. BEDELL. I take it there's not a problem. We're sorry to have to delay this, but at least the chairman thinks this is an extremely important hearing, and I'm sure the committee agrees. We really need to get all the information we can.

We would now ask James Sanders, the Administrator of the Small Business Administration and Frank Swain, Chief Counsel for Advocacy to come to the table, if they would please.

[The witnesses were sworn.]

Mr. BEDELL. Do you want to proceed, Mr. Sanders?

TESTIMONY OF JAMES C. SANDERS, ADMINISTRATOR, U.S. SMALL BUSINESS ADMINISTRATION, ACCOMPANIED BY ROBERT F. McDERMOTT, ASSISTANT ADMINISTRATOR FOR PROCUREMENT ASSISTANCE, SBA

Mr. SANDERS. Yes, Mr. Chairman. At this time, I would like to submit my statement for the record.

Mr. BEDELL. Do we have a copy of it?

Mr. SANDERS. Yes.

Mr. **Bedell**. That would be great, if you would.

Mr. **Sanders**. As you know, we are supportive of this bill. We have made some suggestions parts for your consideration, and I think that with your staff, we could certainly work out anything that we've suggested that has interest to them.

We feel that the bill and the committee is working to improve the "muscle" that we have to procure more from small business. Obviously, the Small Business Administration doesn't run the procurement of the U.S. Government. The Department of Defense seems to have a great deal to say about it. We are not the procuring agencies, of course, so, we must recognize some limitations in what we're doing here, but we are generally supportive of the bill, Mr. Chairman.

[Mr. Sanders' prepared statement follows:]

PREPARED STATEMENT OF JAMES C. SANDERS, ADMINISTRATOR, U.S. SMALL BUSINESS ADMINISTRATION

Once again, Mr. Chairman, it is a pleasure for me to appear before your Subcommittee to discuss proposed legislation that is intended to remove obstacles faced by small business firms who wish to do business with the Federal government. H.R. 2133, introduced by the Chairman, seeks to amend the Small Business Act by addressing deficiencies currently in existence in the Federal procurement system.

As requested in your letter of invitation, I would like to share our comments regarding specific provision of H.R. 2133 and will address the issues we perceive in the order in which they appear in the bill.

CERTIFICATE OF COMPETENCY REFERRAL

The amendment to section 8(b)(7) of the Small Business Act would require the SBA to process any Certificate of Competency referral, and preclude SBA from limiting of the availability of a COC because of anticipated dollar volume of the contract, nature of work, or any other reason not related to responsibility or eligibility. SBA has no objection to processing in any case referred for COC action, provided that a contract is actually in prospect. Specifically, we recently dealt with a case in which we were referred a firm which was already on the "suspended" list. Since SBA's certificate of competence will have no influence on the Contracting Officer's inability to award to a firm suspended by competent authority, we see no purpose to processing the case. Our declining to process, in this case, has nothing to do with responsibility or eligibility but simply with purposelessness. We, therefore, recommend that the language of the bill be modified to allow refusal of referrals by SBA when a contract cannot be awarded if a COC is granted.

QUALIFIED PRODUCTS LIST

Regarding the new subparagraph "(E)," we have several points to question. The portion dealing with "qualified bidder's lists" needs, we believe, some elaboration. While the effects of various actions by contracting personnel may be to create, in a given circumstance, such a list, I admit that I am not aware of any authorization in procurement regulation of the establishment of such lists. The exception would be a "qualified products list" which is a process hedged with regulations and limited to specific purposes. The Congress has dealt with part of the basic problem in Section 223(a) of P.L. 95-507 which requires that solicitations be made available to small businesses. Our own recommendation would be to eliminate both subparagraphs (i) and (ii) and to delete that portion of (iii) which addresses responsibility. In other words, simply remove the right to reject offers from small businesses without considering them.

SUBCONTRACT PLANS

Section 3 of the bill incorporates into the Small Business Act a listing of elements to be provided by SBA when reporting on subcontract plans as required now under P.L. 95-507. Since the elements, except for the name of the contracting officer, are what we now report, we have no material objection. We suggest, however, that the providing of individual names, readily available from government agencies when the other information is provided, would require modification of report forms and operating instructions for little real benefit. In addition, the list of names would result in an unwarranted criticism of those contracting officers who are required to accept poor plans on formally advertised procurements, since they have no alternative.

SMALL BUSINESS SET-ASIDE/LABOR SURPLUS SET-ASIDE

Section 4 of the bill, among other things, substantially strengthens the criteria for small business set-asides. We are concerned, however, that the reference to subsections (d), (e) and (f) in the language authorizing set-aside appeals to the secretarial level may expand SBA's responsibilities excessively. While the priority level of the Labor Surplus set-aside authority has been established previously in the Small Business Act, we have not previously assumed responsibility for active advocacy for Labor Surplus set-asides as a program. This appeal authority implicitly calls upon SBA to assume responsibility for Labor Surplus matters which, we believe, would lead to conflict with our role as small business advocate. We recommend that this function be left to the procuring agencies.

The provisions of Section 4(b) of the bill would be of substantial assistance to small and small disadvantaged business in obtaining contracts as government commercial activities are converted to the private sector.

GOAL SETTING FOR LABOR SURPLUS AREAS

As mentioned previously, we are concerned that SBA not find itself in conflict with basic responsibilities by assuming an active role relating to Labor Surplus set-asides. Aside from that problem, the requirement of section 4(d) of the bill that SBA add Labor Surplus awards to our procedures for annual goal-setting with procuring agencies would necessitate the increase of resources and skills to accommodate this added function.

Pursuing the issue of goals we suggest that in some major agencies the establishment under paragraph (4) of specific requirements may have the effect of reducing the motivation of goaling. Our present goaling is based first upon the agencies' past records, but we also give serious consideration to other factors which may influence performance in the coming year or which created anomalies in the record. This permits us to set goals which are challenging, but reachable. Goaling by the formula proposed in the bill could well result in goals which have no connection to real potential and, thereby, have a discouraging effect on performance.

SMALL BUSINESS SET-ASIDES

Section (e) of the bill would be helpful in obtaining continued support for set-asides.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions you may have.

Mr. BEDELL. Mr. Swain?

TESTIMONY OF FRANK S. SWAIN, CHIEF COUNSEL FOR ADVOCACY, U.S. SMALL BUSINESS ADMINISTRATION

Mr. SWAIN. Mr. Chairman. I, likewise, would like to summarize the statement and possibly focus on couple of issues in which our office, in particular, has taken some previous action.

First of all, let me congratulate you, Mr. Chairman, and other members of the committee, including Chairman Addabbo and Chairman Ireland, in particular, both of whom have had a consistent interest in the relationship between small business and procurement.

I think it's important to reiterate that small business provides significant benefits to the economy as a whole. They provide innovation, and competition which lead to increased productivity.

But, I think it's obvious from the previous witness this morning that the Government procurement process often seems designed to deny the taxpayer the benefit of these important small business contributions. The barriers to small business participation and procurement are many. This legislation addresses a number of them, in particular, the spare parts issue which we think is especially significant.

Our office has been strongly involved in trying to take a look at the barriers that paperwork provides Federal procurement.

We have held a series of hearings on paperwork this year. Basically, we expected to hear a lot about the IRS, the census and other agencies, but we heard a lot more than we expected about Federal procurement paperwork. It seems incredible that the Department of Defense has estimated that it costs nearly 1 billion hours of time per year to fill out the paperwork that goes along with the Department of Defense procurement.

Assuming the DOD procurement budget is $130 or $140 billion a year, and certainly, I'm not the expert on what the current budget figures are, if you cost that out to $20 or $30 an hour, then it could be fairly stated that DOD procurement paperwork is equal to 20 to 30 percent of the total cost of procurement. I think this is a terrible waste as far as the small business person is concerned because the paperwork is a disincentive to getting involved in the procurement process. But as we've heard this morning, the ironic thing is that it's actually for lack of some paperwork, at least information provided by DOD, and other procurement agencies, such as the Federal Aviation Administration, that deprives small businesses of contract opportunities. Technical data, solicitations, and plans are the sorts of information the small business needs to get more efficiently involved. They obviously do not have enough at this point.

I would like to comment specifically about several of the proposals in the legislation. I agree strongly with the intent of the new section E to prohibit Federal agencies from dismissing small business bids. In certain instances qualified producers lists and qualified products may make it difficult for small businesses to compete on specialized contracts, especially those relating to spare parts. As the previous witnesses indicated, the elimination of qualified bidders list and qualified products list seems to be a major step, but an even more important step in some people's eyes would be to break out of the data in the first place.

I am not sure whether you can address that issue through the bill that is before us. I think, however, that this bill and further oversight of important procurement regulations, such as the DAR regulations which we think are skewed too far against releasing data, can make some important inroads.

Section 4 of the bill would clarify the standards on small business set-asides. These proposed procedures would be parallel to some of the procedures now used by the Defense agencies and would apply them to the civilian agencies. Although most of the discussion here this morning has centered on the Department of Defense, small business faces problems with other agencies. As Chairman Ireland indicated, his committee held a series of hearings last year, which focused on problems that small business manufacturers were having relating to regulations of the Federal Aviation Administration.

I might add that we have had a continuing controversy with most of the Federal procurement agencies over the applicability of the Regulatory Flexibility Act to procurement regulations. We feel that the act should apply. The agencies take a contrary position. We think if the act were applied by the agencies, that we would not be seeing the scope of the problems that is being revealed today.

I'm very glad the proposed bill encourage contracting out. Whether an agency decides to do some work in-house or outside is, a key issue for all small businesses. I think the language in this proposal is excellent on this and, in conjunction with the new OMB Circular A-76, will make a real contribution. I believe, however, the most important subject the bill addresses is the problem of the lack of small business accessibility to spare parts contracts.

There has been discussion this morning of the amount of money to be saved, documented by the GAO investigation. The report, a result of Chairman Addabbo's request, spells out the dollar savings of an average of 38½ percent on those relatively few spare part breakouts handled by the SBA so far. Clearly, if that program could be increased, I think the benefit to the Government, and ultimately taxpayer, would be tremendous.

As mentioned, Secretary Weinberger, has issued a memorandum on spare parts procurement. People who know spare parts issues very well say the memorandum says some very good things. As one of the witnesses earlier this morning indicated, the challenge is going to be making sure that the directives in that memorandum filter down to those actually doing the buying and standard setting. I think it is going to take some strong oversight by people in the SBA and my office, as well as by this committee, to insure the proper result. We have every confidence that the situation will improve, but I think the situation will improve faster if the people that are doing the buying in the Defense agencies realize that there are some very concerned people in the Congress and other parts of the Government who are interested in the success of Secretary Weinberger's memorandum.

On the issue of goaling, I would only suggest, as we do in our written statement, that a governmentwide high procurement goal is a good thing in principle. We're not sure that in practice it would not tend to let people who already do better than the goal off the hook. We would suggest that there be goals but they be varied somewhat by agency. Certainly the agencies that are not doing so well need to get better, but agencies that are doing better than the goals in the bill do not need any incentive to slack off.

Finally, I am supporting the increase in the set-aside from $10,000 to $25,000. Our office has had some ongoing research on the number of contracts that go to small businesses in various size categories, and I think that this proposal will result in more contracts to small firms. The estimate is from $1 to $2 billion a year, increase if the threshold were raised.

Although I should say that as we've found out in the procurement area, there are two sides to every issue and indeed, there's some controversy on this particular proposal within the small business community. I suspect some of your other witnesses today will speak on that issue.

On balance, we think the bill is excellent, and with the exception of some technical changes which we would be happy to work with the committee on I would recommend that the committee go ahead and report out the legislation.

I believe the committee can influence, the other committees of Congress who have more direct jurisdiction over the procuring agencies so that their rules might be reformed as well.

I appreciate your time, Mr. Chairman.

[Mr. Swain's prepared statement follows:]

PREPARED STATEMENT OF FRANK S. SWAIN, CHIEF COUNSEL FOR ADVOCACY, U.S. SMALL BUSINESS ADMINISTRATION

Mr. Chairman and Members of the Committee, thank you for the opportunity to present my comments on the issue of improving Federal contracting opportunities for small businesses. These are my views and do not necessarily reflect the views of the Administration.

As you are aware, Mr. Chairman, it is estimated that for Fiscal Year 1983, the Federal government's total procurement budget was $160 billion. If past years are an accurate indication, small business will receive about 20 percent of these contract dollars.

This low percentage of small business share of the Federal procurement dollar is not commensurate to the importance of small businesses in the American economy as a whole or the ability of small firms to effectively and economically supply the government. As President Reagan said in his message to Congress when transmitting his report on the state of small business "(o)ur government policies on procurement must be administered to as to utilize the best that small firms have to offer in goods and services."

Small business access to Federal contracts is restricted by entry barriers in the form of lengthy Federal statutes, obscure regulations, clauses, and forms, all of which must be read and understood before they can start to compete for contracts. On top of this, Federal agencies can impose impediments, often inadvertently, which make it even more difficult for small businesses to successfully compete for contracts.

These are seemingly minor things, such as failure of contracting agencies to post public notice of all bids, mishandling bids once they are submitted in a timely fashion by a small business, and cancelling a solicitation after all the bids are in because it is determined the government no longer needs the items. I have received complaints from numerous small businesses about these problems and many others.

I have just finished a set of six hearings held across the country where I heard from even more small businesses directly about their problems with government contracting. Although the theme of the hearings was paperwork reduction, many of the problems focused on procurement.

From preliminary data gathered by the OMB, the procurement related paperwork of only four agencies (DOD, SBA, VA, and DOE) is approximately 1.25 billion hours. I bring up these numbers to illustrate that change is needed in the procurement system not only in its substance but in its procedural aspects as well. In the general areas addressed by the bill before you today, I have a couple of examples.

First, small and small disadvantaged businesses must complete self-certifications under P.L. 95-507 and frequently are also required by prime contractors to submit written information relating to their size despite the Small Business Act which permits reliance on self-certification.

Another problem is that although Federal paperwork policy is that agencies can require no more than an original and two copies of proposals, that policy is often ignored.

H.R. 2133 addresses several issues related to the policy goal of securing for small businesses a greater share of the Federal procurement dollar. It does this on an issue-by-issue basis through the Small Business Act.

Some of the problems addressed in the bill are government competition, undue use of restrictive procedures in the Department of Defense (DOD) spare parts procurement and strengthening the SBA procurement assistance program so that it has greater statutory authority to seek out new sources of contracts for small business.

As you may be aware, my office is involved in wide variety of issues involving small business procurement and there are certainly many other agencies, statutes and regulations where reform may be appropriate. Mr. Chairman, the matters I will address today are only some of the much needed procurement reforms.

SMALL BUSINESS OFFERS

I agree with the intent of the new section (E) to prohibit Federal agencies from dismissing small business bids. In certain instances, qualified producers and qualified products lists may make it difficult for small business to compete on specialized contracts, especially those relating to spare parts procurement.

I would, however, recommend that the section be amended to require consideration of small business offers without prior approval from a Federal agency. The new section provides no guarantees that more contracts will be awarded, but would give small businesses a better chance at successfully competing for contracts which are effectively closed to them now.

Small businesses report that the issue of bidders or products lists to some degree is dependent on the issue of making the technical data available upon which to base a bid. The data availability issue may have to be addressed through additional statutory or regulatory section changes.

STANDARDS FOR SET-ASIDES

The bill clarifies the circumstances under which total small business set-asides may be made. The proposed procedures parallel those in the Defense Acquisition Regulation which require "at least two" responsible small businesses as adequate competition to justify a total set-aside. This would make the standard of competition uniform for all contracts, whether or not subject to DAR.

CONTRACTING OUT

I am very glad to see your proposal which would encourage contracting agencies to "reduce the number of anticipated requirements to be contained in each of its contract solicitations" to provide small businesses with the "maximum practicable opportunity" to compete. This would also discourage the existing practice of using umbrella contracts which can eliminate small businesses from opportunities to work as prime contractors on Federal contracts.

This bill also provides small businesses the maximum opportunity to benefit from any Federal agency decision to convert those commercial-type activities which were performed by the agency. My office has always been very active in promoting the policy that the Federal government should not compete with the tax paying small business community, and I endorse all efforts to help us alleviate this problem.

SOLE-SOURCING

I believe the most important subject this bill addresses is the problem of lack of small business accessibility to spare parts contracts.

As you are aware, Mr. Chairman, in September 1980, the SBA, at the request of the House Small Business Committee, prepared a study which showed savings to the American taxpayers of $6.7 million, or 38 percent, when 181 aircraft spare parts for the Air Force were broken out for small business competition. These 181 parts represent a minute fraction of the some 3.9 million spare parts which DOD purchases every year.

SBA's report indicated that only 7.9 percent of all spare parts were purchased on an open competition basis. If all 3.9 million of these spare parts (which cost approximately $10 billion a year) were competitively bid, and the savings were comparable to those in the SBA study, we could get the same products for about $4 billion less.

The General Accounting Office (GAO), at Congressman Addabbo's request, conducted a 1982 review of SBA's reported breakout accomplishments during the first 18 months of operation. GAO corroborated SBA's report, and in fact, revealed that SBA's reported average dollar savings of 38.5 percent for parts broken out for competition in the pilot programs was probably understated.

More recently, I am glad to see that Secretary Weinberger recognized the importance of reforming the spare parts procurement system and made a serious commitment to alleviate the problem of overpricing in DOD spare parts. His directives include reforms such as:

Applying the DOD Parts Control Program to enhance competition. The optimum use of standard military parts or commercially available parts in development of new systems will be mandatory.

Developing and testing a procedure to make breakout of spare parts a factor in source selection for new major systems.

Negotiating contract data provisions which are appropriate, reduce contractors' proprietary rights in data.

Considering in all contracts, as appropriate, the Government's right and ability to break out and procure competitively spare parts.

Insisting upon contract terms and conditions in all future acquisitions that afford more equitable treatment and provide for greater assurance of fair and reasonable prices.

If this memorandum is given its full intended effect, it would be likely that fewer sole source exceptions would be justifiable by the contracting agencies. It is clear that significant reforms of the actual agency practices, in addition to any new authority given the SBA, would be most effective in dealing with this important subject.

GOALING

The bill would also expand the authority of the SBA to negotiate goals by requiring SBA to establish goals for businesses performing government contracts in labor surplus areas.

The SBA would be given the responsibility to negotiate goals for a sector of the business community which may be in direct competition with small businesses. The responsibility to set goals for non-small business labor surplus area set-asides would be better placed with some other Federal agency.

Although I agree with the goaling section's intent to increase the percentage of small business contracts, I have some reservations about the use of an across-the-board fixed percentage in the statute. This goal is too high for some agencies and too low for others.

Furthermore, some agencies may interpret this numerical figure as a standard for what constitutes a "fair proportion" of contracts to go to small businesses, and may not be motivated to try to let even more contracts to small business. I strongly agree that timeliness of goal negotiations should be a high priority.

LARGER SET-ASIDES

The bill extends the existing statutory $10,000 small business, small purchase set-aside provision to be an automatic set-aside for all proposed purchases under $25,000, regardless of whether they would be subject to small purchase procedures. This provision is intended to increase the number of contracts going to small businesses within this dollar range, a result which I strongly support.

As a practical matter, this change would be very modest. Had the higher purchase set-aside been in effect in FY 1982, it would have resulted in less than $2 billion of additional contracts to small business, or about 1 percent of total prime contract actions in excess of $10,000.[1]

The bill would also impose a rebuttable presumption on contracts with anticipated values of more than $25,000 but less than $2,000,001 that the criteria for total small business set-asides or Section 8(a) procurements are met. This change would benefit the small business community.

Thank you for the opportunity to address this legislation which is important to the small business government contracting community. I will be glad to address any questions.

Mr. BEDELL. Thank you very much, Mr. Swain, and we would urge you to work with the subcommittee staff on any suggestions you have so that we can at least give them consideration.

Mr. SWAIN. We'll be happy to.

Mr. BEDELL. Mr. Britt?

Mr. BRITT. Mr. Swain and Mr. Sanders, the success stories that we're hearing are about the breakout program, and the procurement center representatives. We also hear that there may be less support for the expansion of that program, we're not sure where the lack of support is coming from. Are you committed to that program and to an expansion of that program?

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[1] In FY 1982, there were $3.7 billion in contract actions between $10,000 and $25,000. Of these, $1.5 billion or 41 percent went to small firms. Large firms and non-profit institutions received the remaining $2.2 billion. Federal Procurement Data Center Special Report 401, April 8, 1983.

Ongoing Office of Advocacy research should provide within the month more exact information as to the number of contracts in various dollar categories which go to small firms, and we will make this available to the Committee as soon as it is finalized by our contractor.

Mr. SANDERS. Yes, Congressman, I made my recommendation to increase our activities in the breakout program and we're still negotiating with OMB on those numbers.

Mr. BRITT. So, it is at OMB that there is some reluctance.

Mr. SANDERS. Well, I think that maybe reluctance isn't the word, but of course, as someone once said, you certainly have one of the worst jobs, Mr. Administrator, and having to satisfy everybody all the time.

I said, no, the worst job is OMB. They have the job of stopping the outflow of money and, of course, that's their primary consideration. So, we have to make, in every agency, a pretty strong sell on when you're going to expend some more money.

We think the breakout program is a good investment.

Mr. BRITT. But doesn't your pilot program in that area demonstrate that each of these procurement center representatives saves more than 10 times their salary?

Mr. SANDERS. I think so.

Mr. BRITT. So, what we're really talking about here is really a multiple. It's really in terms of saving of the spare parts or other areas that there's going to be a saving much greater than what was spent on the salaries of these people?

Mr. SANDERS. I believe that's inescapable.

Mr. BRITT. Thank you, Mr. Chairman.

Mr. BEDELL. Mr. Addabbo?

Mr. ADDABBO. Thank you, very much, Mr. Chairman. This is a banner date for me agreeing with two Senator Grassley and SBA.

I thank you for all your comments in support of the legislation. I know you regret, as much as I do, having worked on this program so long that it has to go the legislative route. This is because DOD and OMB do not take the direction of GAO reports and legislative reports. I thank you for all your support and comments.

Mr. SANDERS. Thank you, sir.

Mr. BEDELL. Mr. Olin?

Mr. OLIN. Thank you, Mr. Chairman. I might ask is SBA one of the prime advocates of small business and I certainly am anxious to do whatever I can do to strengthen that poll. I'd be happy to have that money that Secretary Weinberger within the hierarchy of the Defense Establishment is interested in saving money on procurement.

Now, what I wanted to get at a little bit was in your role of advocate for small business and in helping small business have access to Federal procurement. Is there anything that you haven't brought up yet that is not contained in the bills that are proposed that you'd like to call to our attention which would make you more effective as an advocate for small business within the governmental structure?

Mr. SANDERS. Within the procurement activity?

Mr. OLIN. Within the procurement activity? DOD or other departments?

Mr. SANDERS. Well, I don't think at this time, Congressman it almost opens up a whole philosophical discussion of the whole process of procurement which is so——

Mr. OLIN. If you're going to make a few comments on it, it would be worthwhile.

Mr. SANDERS. Well, obviously, we feel that the share of total Federal procurement by small business could be measurably increased, particularly as we look at the big share that Defense Department has. We feel that it's probably not in a good ratio, a proper ratio with the amount of people employed in the small business sector of the economy. We feel that the small business people as the testimony this morning bore out very clearly, could make a contribution to both the national economy and to the Defense budget in savings if there were certain changes in procurement procedures.

Mr. OLIN. We ought to be exceeding the set-aside by a substantial amount.

Mr. SANDERS. I think we should be increasing the share of small business in procurement. But, on the other hand, you know, we always have to take into consideration some of the realities of the Defense Establishment in this process, the very sophisticated weapon systems. In some areas, it's true that there are not very many small business people in that arena, but on the other hand, you all know the spare parts story and quality can be guaranteed there.

Mr. OLIN. Maybe this is not the time to, or maybe we don't have the time to cover this in detail—but I'd be very much interested in receiving any additional comments you, Mr. Swain, might like to make with regard to that subject because we're trying to find out not only what's a practical way to help small business but also save money for the Government. We're on the side of the angels in both areas, and we're looking for ideas. The legislation that we're considering has certain ideas in it. I suspect that you're much closer to this subject than most of us, and I would urge you to find some avenue to consult with us a little bit more in some detail. It might be possible at this hearing.

Mr. SANDERS. I think that we could do that beneficially, Mr. Congressman, we could summarize a few points that we think are overriding considerations in procurement.

Mr. OLIN. I'm sure the chairman would like to follow up with you on it.

Mr. SWAIN. May I mention one thing, Mr. Chairman. In that area, as I indicated, I think a key issue is the accessibility of technical information. People might spend a lot of time arguing whether the specific language of this particular bill is really going to ultimately solve that problem because there are Department of Defense regulations that intervene.

One important step in achieving governmentwide procurement coordination is pending. This is really not the proper forum to talk about it. The House has already acted on what I think is very important legislation to extend the authorization of the Office of Federal Procurement policy which is set up as a central mechanism to coordinate Federal procurement policy.

Now, the problem is that procurement issues are really institutional issues between and among agencies. I think it is important to achieve coordination between the Department of Defense, the General Services Administration, the Veterans' Administration and other agencies that are doing buying rather than having lots of separate sets of rules and regulations and separate types of practices.

The House has already acted and given the OFPP a strong hand. I certainly hope the Senate will act expeditiously to do the same. It is only in existence today because of the continuing resolution.

Mr. **Olin**. Thank you, Mr. Chairman. Thank you, gentlemen.

Mr. **Bedell**. Mr. Sisisky.

Mr. **Sisisky**. Mr. Swain, you remarked about the larger set-asides from $10,000 to $25,000. You said there are two sides of the story. Would you relate both sides?

Mr. **Swain**. Well, as I understand it, Mr. Sisisky, there are some people that feel that raising the set-aside from $10,000 to $25,000 or any other figure will simply advantage retailers or wholesalers of goods and disadvantage small manufacturers. For example, a large firm may simply be able to break up a $100,000 purchase into four $25,000 purchases, and channel it through four different small retailers and the Department of Defense or any other agency would receive credit as doing business with small businesses. But I think there are witnesses you have scheduled this morning or this afternoon which will probably elaborate on that side of the issue. Frankly, it is an argument we are not sure of its validity because there is so little documentation. There is a lot of supposition but one never knows what actually is going to happen until you actually raise a set-aside.

The point I was making in the testimony is that in terms of a $110-billion-per-year procurement budget, raising it from $10,000 to $25,000 affects about $3 billion. About half of that already goes to small business, so what you are talking about giving small business is another $1½ billion. To me, that seems like a remarkably modest step and certainly one that we ought to try.

Mr. **Sisisky**. It's a modest step, but still appreciated.

Mr. **Bedell**. Some of us think $1½ billion is a fairly sizable amount of money. [Laughter.]

Mr. Ray.

Mr. **Ray**. Mr. Swain, how is the certificate of competency program working? Are there any problems?

Mr. **Sanders**. Mr. Ray, I'd like for Mr. McDermott, who runs our procurement office to answer that. He's the closest informed. He's the hands on in that program.

Mr. **McDermott**. As direct answer to your question, Mr. Ray, yes, there are problems with it. There are problems both from the Small Business Administration viewpoint and there are likewise problems from the procuring agency viewpoint.

First of all, the procuring agency viewpoint is why should SBA be telling us who a qualified contractor is? We should decide who the qualified contractor is and therefore it becomes more or less of an adversarial position right from day one. We find that the workload has increased tremendously. I think that had something to do with the downturn in the economy sometime back. We see now that the workload is lessening a little bit.

We had many, many small businesses coming into the Government procurement field who apparently had not been in the Government procurement field before, and as a result of a lack of knowledge and the fact that the procuring agencies were not aware of their capabilities, or didn't believe their capabilities they are referred for a certificate of competency. As a result, there have been instances where we have made a mistake in certifying contractors that we felt at the beginning could produce a quality product and then it turned out that they, in fact, could not produce. At least not in a timely manner, for the Defense Department or for the other agencies.

But, I think by and large, the small business community, or at least those who have been involved in contracts which they received as a result of a certificate of competency, would tell all of us that the program is working and it is working to the advantage of the small business community.

Now, in the event that there is a failure and that contractor is terminated for default, then the agency, the procuring agency has no redress to the SBA.

Mr. RAY. I see. We don't just take the word of the contractor that he's competent. He has to show some proof?

Mr. McDERMOTT. Oh, yes. We do, we think, a very thorough investigation.

Mr. RAY. Well, thank you, sir.

Mr. SISISKY. Will the gentleman yield?

Does the procuring agency pay attention to you? You alluded to the fact they argue with you. Do they negate the law in any way?

Mr. McDERMOTT. We have the final say, Congressman. The Administrator of SBA has the final say as to whether a certificate of competency will be issued, and we don't find that they ignore our issuance once, in fact, we do certify.

Mr. RAY. One further question. I assume that once we don't certify a contractor, the procurement officer won't have anything to do with him sure enough again; is that right?

Mr. McDERMOTT. The procuring officer only sends us a so-called referral when that contractor has been determined already to be nonresponsible in the eyes of the procuring agency.

If we do not certify the competency of that one, then the procuring officer goes on to the next higher bidder and awards the contract.

Mr. BRITT. What about the threshold requirements? You know, we hear about a qualified bidders list. Mr. Sanders' testimony indicates that as far as he knows there's no authorization of that in the procurement regulations.

What's going on there and what can be done about it? Of course, Congressman Mitchell's bill does address that issue, but what is actually happening there?

How are they establishing these lists and under what authority?

Mr. McDERMOTT. To the best of my knowledge, they're not in the DAR, the NASA regulation or the Federal procurement regulation. There is no authorization for a qualified bidders list per se. Now, there is a qualified products list which is an entirely different subject.

Mr. BRITT. In fact, are procurement agencies establishing qualified bidders lists?

Mr. McDERMOTT. They are attempting through prequalification of bidders, to require a prequalification. Now, within the Defense acquisition regulation, there is a requirement that for certain major complex construction projects, that there be a prequalification of the bidders for that particular requirement.

Also, within the Navy, there's a so-called master ship repair contract, where you must have certain qualifications in order to obtain one of these master ship repair contracts. From then on, ship repairs are awarded on a task order or a work order type document based on the master ship repair contracts. Apart from that, there is no qualified bidders list that I'm aware of.

To use an example, a few years ago, we had a very severe problem with one of the services that was attempting to prequalify all small businesses relative to subjects discussed this morning like spare parts.

They wanted to see that a small company could produce that part before it would do business. We were successful, with difficulty, in having that service eliminate that requirement.

Mr. **Britt**. But so far, as you know, that's not an ongoing problem at this time?

Mr. **McDermott**. From time to time it exists. But, we have been successful by and large eliminating it, except as I say for master ship repair and this one requirement of construction that exists.

Mr. **Britt**. Thank you, Mr. Chairman.

Mr. **Bedell**. Are you through, Mr. Ray? Mr. Sanders, on this certificate of competency, is it correct that the policy is now that if it's under $10,000 you do not consider it for a certificate of competency and refer it to the Defense Department?

Mr. **Sanders**. I'd prefer to have Mr. McDermott answer the specifics, Mr. Chairman, since he operates our office.

Mr. **McDermott**. Mr. Chairman, we have made the requirements on the $10,000 referral for certificate of competency optional with the contracting officer. We do not refuse to accept any referral. We accept whatever referral is sent to us, and process it. We did, however, because of a tremendous increase in workload as I've explained before the full House Small Business Committee, make optional with the contracting officer whether that individual wished to refer to us a case under $10,000.

Mr. **Bedell**. OK. Have you checked with your attorneys and do you believe that it complies with the law?

Mr. **McDermott**. Before we did it, we checked with our attorneys. We have a written opinion that the Administrator for SBA has that authority.

Mr. **Bedell**. Would you furnish that written opinion?

Mr. **McDermott**. Certainly, sir.

[The information referred to above follows:]

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., July 17, 1981.

To: Bernard Kulik, Associate Administrator for PA.
From: Donald W. Farrell, Associate General Counsel.
Subject: COC Referrals under $10,000 (OGL Log No. 9212—BLS).

This responds to your request for an opinion regarding the authority of SBA to limit Certificate of Competency (COC) referrals to those solicitations where the contract value is $10,000 or more.

Prior to the passage of Pub. L. 95-89, August 4, 1977, § 501, 91 Stat. 561, SBA had agreed with the procurement agencies that its authority under Section 8(b)(7) of the SBAct would not be exercised if a proposed contract award is less than $10,000. The statute then and now imposes no limitation on SBA's authority. SBA, in reliance on the discretion implicit in the statutory phrase (see Section 8(b) of the SBAct) ". . . whenever it determines such action is necessary," agreed with the procuring agencies that its COC authority would not be exercised if a proposed contract award was for less than $10,000.

Should your office wish to reinstitute this policy of not exercising its COC authority on contracts of less than $10,000 it may legally do so pursuant to Section 8(b) of the SBAct.

Mr. **Bedell**. This is a change in policy, is it not?

Mr. **McDermott**. It's been in effect now for about a year and a half.

Mr. **Bedell**. Yes. Change of policy by Mr. Sanders and the SBA?

Mr. **McDermott**. Yes, that's correct.

Mr. **Bedell**. I think the committee would like to have some reason as to why it is you decided that for those small businesses that have small contracts that they should be precluded from the opportunity that has existed in the past for those people and for people of medium-sized or somewhat larger businesses to have an opportunity to get a certificate of competency.

Mr. **McDermott**. Well, as I say, we do not refuse any referral. We process every referral.

Mr. **Bedell**. No, but you refuse to consider it, as I understand it. You leave it up to the Defense Department, do you not?

Mr. **McDermott**. We leave it up to any contracting officer, that's correct.

Mr. **Bedell**. Yes, but you don't do that for the larger ones?

Mr. **McDermott**. Anything over $10,000 is mandatory.

Mr. **Bedell**. Yes. That's a ruling you've got.

Mr. **McDermott**. That's correct.

Mr. **Bedell**. Everything was considered before Mr. Sanders took over?

Mr. **McDermott**. Prior to 1976, this same situation existed. The regulation was changed in 1976 which said that everything would come to SBA regardless, and a year and a half ago we changed it back.

Mr. **Bedell**. Why did you make that change, Mr. Sanders?

Mr. **Sanders**. Well, simply because of the resources, Mr. Chairman. We felt it was much more effective. We could give better service to those above a certain level if we made this change.

If we go back in the other direction, we're going to have to add people on to just process the work.

Mr. **Bedell**. So, you thought it was all right to say that whether or not you're going to consider a referral is going to be dependent upon the size of your business or the size of the award, in view of the fact that you didn't have enough money to properly administer; is that right?

Mr. **Sanders**. I don't believe that there's been a demonstrated unfairness in this issue, Mr. Chairman, We're talking about contracts above $10,000. That's not a big sum. We not talking about firms below a certain size. We're talking about contracts above a certain size.

Mr. **Bedell**. You believe small businesses above $10,000 makes a difference, do you not?

Mr. **Sanders**. Well, there might be some bigger businesses that have smaller contracts and some smaller ones have bigger contracts.

But, you know, I have not seen any demonstration that there has been an unfairness in this procedure or that there's been any injury to small business people in this process.

Mr. **Bedell**. Well, how would you see that demonstrated if it were happening?

What evidence would come to you that it was happening?

Mr. **Sanders**. I guess I would have to see some kind of substantial evidence which would be presentation of cases.

Mr. **Bedell**. OK. If we find cases where there are people that have applied on contracts of under $10,000 and have been refused by the Defense Department, I presume that would be some proof that we could bring to you; is that correct?

Mr. **Sanders**. If they have been denied certificates of competency because they were less than $10,000 and were therefore not given an opportunity to be reviewed.

The initiation of the COC has to come from the agency, doesn't it? So, I don't know that they could demonstrate that, but they would have to evidently bring up some cases where they feel there might have been some initiation by an agency that wasn't taken then.

Maybe you have some facts, Mr. Chairman, that I don't have, but I really haven't seen this as a problem for small business.

Mr. **Bedell**. But, the reality is, just so we understand, the reality is that since 1976 I could apply for a certificate of competency regardless of the size of request on which I was bidding.

A change has now taken place that if my bid is less than $10,000 I cannot be assured of the same consideration that has been in the past or that would be given for people bidding amounts over $10,000. Now, you may consider that a very minor amount. I think some of us would feel that's of some concern.

Mr. **Sanders**. Well——

Mr. **Bedell**. Do you know what percent of the DOD purchases are under $10,000 of small businesses?

Mr. **Sanders**. The reason we made this step was to increase the speed and the service of the remaining certificate of competency awards, and that was becoming a problem.

Mr. **McDermott**. In the last year and a half, Mr. Chairman, we've had one complaint from a small business.

Mr. **Bedell**. Well, if that's the only problem it wouldn't be very much of a problem for you to consider it, would it?

Mr. **Sanders**. One complaint that he was denied——

Mr. **Bedell**. If there's only one in a year, you could consider that without having to have a whole lot more personnel; couldn't you?

Mr. **McDermott**. That's not the number of referrals. We talked about $10,000 and under $10,000 and I think we immediately think of a $9,000 or $9,500 contract.

We have had referrals for as little as $727. It costs the contractor more than that to prepare for a certificate of competency and we don't think that's cost efficient on either side, be it the Government or the contractor. Of course, the option is his, but it gets ridiculous, I think, when you get down to the point that a procuring agency will be sending you a referral to determine the competence of a contractor who has a bid for this particular one of $727.

Mr. BEDELL. Yes, but that's not ridiculous on the part of the application. That's ridiculous on the part of the administration, it would seem to me.

I agree that it's ridiculous, but if I'm only bidding for $700 worth of something, it would seem to me that I should not have to go to all the trouble of getting a certificate. Under many circumstances, that the person is probably reliable and it's not too likely it's going to be one of those rings for a jet engine for $700, for example.

We're short on time, but Mr. Sanders, with regard to the procurement center representatives of which we've had a little talk here. The feeling is that that's very beneficial. Is it true that Office of Personnel Management is trying to downgrade that position and lower the salaries?

Mr. SANDERS. That's one of a number of positions that have been suggested by the Office of Personnel Management to be downgraded.

In other words, I'm trying to point out that's included, and it's not a selective thing, just picking on PCR's, but yes, as you know, the OPM is going through an entire process——

Mr. BEDELL. What is your opinion on that proposal?

Mr. SANDERS. Well, I think the biggest problem in the Office of Personnel Management is not so much the fact that we have a lot of people that are graded above the level of the work that they're doing, but it's the classification system, I think, that's at fault in the Office of Personnel Management. If you want to get me into the subject——

Mr. BEDELL. No, that's not my question. What is your opinion of the proposal by the Office of Personnel Management to downgrade the salary and the rating of the people that you have as procurement center representatives?

Mr. SANDERS. Well, I think it——

Mr. BEDELL. You think that's all right to do that?

Mr. SANDERS. I think that in most of the cases of downgrading of PCR's we may be faced with losing some competent people who can find a better opportunity outside the Government in their profession. The Government has some great advantages to private industry, for example the security of the employment. But by the same token, I'm concerned not only in this position, but in some others, that we'll lose people.

I'm even more concerned, well, not more concerned, but equally concerned in some of the clerical downgradings where we can't compete with private industry and it is affecting our productivity in the agency. These are all management considerations. Obviously I would like to have the freedom to pay people what they're worth without OPM regulations, but of course that's prohibited.

Mr. BEDELL. Do you think that's fine for them to go ahead and downgrade the salary or the rating for the people you have in the procurement center?

Mr. SANDERS. Well, I think I've answered the question, Mr. Chairman.

Mr. BEDELL. No, you haven't. Is it all right, or isn't it all right?

Mr. SANDERS. What's all right mean? What's fine mean?

Mr. BEDELL. Do you support it?

Mr. **Sanders**. Mr. Chairman, I just made a statement that I think there is damage done in the way the personnel regulations are written, they're bracketed, they're not selective about productivity, I certainly think we run the risk of losing some PCR's, I think that's regrettable.

Mr. **Bedell**. So, you do not support it?

Mr. **Sanders**. I don't support the approach of the Office of Personnel Management in the regulations as far as being productive; that's correct.

Mr. **Bedell**. My question is, in regard to the downgrading of the procurement center representatives will you, as Administrator of the Small Business Administration, in your position in the Administration, will you oppose such a proposal by the Office of Personnel Management?

Mr. **Sanders**. I have opposed the entire practice of downgrading——

Mr. **Bedell**. I'm not asking you what you have done, I'm asking you what you will do.

Mr. **Sanders**. I'm including the part of the SBA total employment.

Mr. **Bedell**. So, your answer is, yes; you will oppose this——

Mr. **Sanders**. I made my answer, Mr. Chairman. I think it was inclusive of the entire agency and the entire practice of indiscriminately downgrading positions which includes the PCR's. I don't think that's the way to handle a personnel practice and I have opposed those.

Mr. **Bedell**. You will continue to oppose——

Mr. **Sanders**. I'd like to put it in my words, Mr. Chairman, not yours.

Mr. **Bedell**. Yes, but your words to me are not answering my question, I don't think. What I want to know is whether we've got somebody in the administration that will oppose something that this gentleman thinks is very, very wrong. If you will oppose it, I don't see why you won't say that that's what you're going to do rather than talk about what you think about the whole idea.

If you're not going to oppose it, then that's fine, just tell me you're not going to, but I don't think it's wrong for a Member of Congress to ask you what you plan to do in regard to something that this gentleman thinks is wrong.

I think that's a legitimate question. I think as a Member of Congress I'm entitled to a legitimate answer. Is the answer yes or no? You will or you won't?

Mr. **Sanders**. Mr. Chairman, I'll state it once more so that it can be as clear as possible. I have opposed the entire——

Mr. **Bedell**. I'm not asking you what you have done. I'm asking you what you will do in the future, Mr. Sanders, and I think that's a legitimate question.

My question is, in the future, do you expect to oppose that proposal or do you expect to support it? It seems to me that's a very simple question.

Mr. **Sanders**. And, I'm going to answer it, Mr. Chairman, once again. I have and I will oppose the practice that the Office of Personnel Management is currently following in downgrading all the positions in the SBA without reference to the productivity and that includes the PCR's.

Mr. BEDELL. OK. Thank you. Finally, and we're running out of time.

We were a little disturbed when our staff called over to check on your testimony and they said it was over at OMB for them to check. I talked to you before about what the law reads. I don't think I have to read it to you again.

Mr. SWAIN. Mr. Chairman——

Mr. BEDELL. Would you tell me why you submitted it——

Mr. SWAIN. Mr. Chairman, it is a guerrilla warfare to get any agency to pay attention to small business. I think that the process whereby agencies, before they come up to Congress, have their testimonies circulated for other agencies comments, is an important one. There have been many instances in which we have found other agencies that are saying things that we do not agree with. For that reason, I want to follow the practice of circulating my testimony for comment.

Whether I accept those comments or not is another question entirely. In some instances, as it is in this one today, there were some suggestions made by other agencies that I would not go along with. Therefore, I put in my statement my disclaimer, that I'm appearing here on my own and with no imprimatur from OMB. I'm not sure that I share your exact interpretation of that procedure is precluded by statute.

Mr. BEDELL. May I read it again?

> The report shall not be submitted to the Office of Management and Budget or to any other Federal agency or executive department for any purpose prior to transmittal to the Congress and the President.

I don't know how you can say it any better than that, Mr. Swain.

As a Member of Congress, I don't know how we could say it any straighter than that.

Well, we're very pleased with your testimony.

Mr. SWAIN. Well, I appreciate your comments on my testimony, Mr. Chairman.

Mr. BEDELL. Any further questions? If not, the subcommittee will adjourn until 1:30.

[Whereupon, at 12:25 p.m., the subcommittee recessed, to reconvene at 1:30 p.m. the same day.]

AFTERNOON SESSION

Mr. BEDELL. The subcommittee will come to order. Our next two witnesses are a panel consisting of Richard Otero of RJO Enterprises in Crofton, Md., and Charles Engfer of Lynmar Sales, Inc., Fairfield, N.J.

Would you gentlemen please come forward?

[The witnesses were sworn.]

Mr. BEDELL. We would appreciate it if you would be as brief as possible and still get your message to us. And first, we will hear from you, Mr. Otero.

Mr. OTERO. Fine.

TESTIMONY OF RICHARD J. OTERO, PRESIDENT, RJO ENTERPRISES, INC.

Mr. OTERO. Mr. Chairman, thank you, very much. I really appreciate the opportunity to be the first guest speaker after lunch. I know how well prepared we will all be to listen to these comments.

I promise you a few things, one is brevity and the second one is a change of pace from the piece parts discussion that you heard this morning but hopefully an equally important set of issues.

Mr. Chairman, members of the committee, I appreciate this opportunity to share with you my views on H.R. 2133 and some related issues from the perspective of a small, minority-owned, high-technology firm wishing to continue to do business with the Federal Government.

There are two specific problems that are currently inhibiting minority and other small businesses from fuller participation in the mainstream of Federal Government contracting to which I will draw your attention. The first of these, I have termed the Federal Government contract aggregation problem. This issue relates directly to subsection (b) of section 15 of the Small Business Act.

What is this problem? There is today a growing tendency for Federal Government agencies to aggregate or combine their requirements for outside assistance, awarding a fewer number of larger, general support contracts for example, in lieu of the many smaller, more specific contracts previously awarded. While the reasons given for these types of procurement actions, such as simplified contracting, improved integration of diverse projects and reduced acquisition costs are not totally without merit, the results on small businesses are often catastrophic, and do not, in my opinion, warrant the continued widespread use of this practice. The continued award of large collective services, umbrella, general support, and other types of generic contracts cause small businesses such as RJO, to be effectively eliminated from consideration from these opportunities.

This is so for a number of obvious reasons. First, a large number of staff people, sometimes in excess of 1,000 are required for these aggregated efforts. There are few small businesses that can credibly demonstrate these levels of commitment to any single contract.

Second, there is a high degree of attention placed on a long history of corporate experience and a broad range of technical skills. Many small businesses especially those of us in the high technology arena do not yet have this legacy. Frankly, we never will have unless we are given the opportunity to compete; I repeat, compete on our own level.

Third, the financial resources to both conduct the vast amount of preproposal research needed to submit a technically responsive proposal, and to finance the always huge front-end negative cash-flow phases of these projects is, by itself, sufficient grounds to rule out any serious consideration by any small business or businessman.

A prime example of the above tendency is represented by the current pending contract within the Department of Transportation, it is actually the Federal Aviation Administration, for a National Air Space System, System Engineering, and Integration. That is the name of the contract. This procurement represents a 10-year contract at a staffing level that will exceed 1,000 man-years per year. It spans a range of technologies and services so broad that even our Nation's largest aerospace companies, I am sure that you would agree that Boeing is among them, have had to team with other giants of this industry, Lockheed for example. The areas of work covered by this procurement are so diverse that the price of competing, that is, the price of competition, to enter this competition, could well reach $10 million per competitor.

The size of this aggregated effort is so large for the types of services, and I repeat, the types of services that are being required that the Government has received only two bids. Whereas, in the past, hundreds, literally hundreds of companies, both large and small might have competed for this work in its disaggregated form, only one prime contractor will be selected. To draw an analogy, the type of procurement action represented by the above example could be likened to selecting one State house or State congressional delegation to perform all of the Government's executive or legislative work because it might be more efficient, would simplify the coordination problems, and certainly be less costly.

Mr. Chairman, it is difficult for me to rationalize a Government, which on one hand seeks a divestiture of the Bell System which I applaud in the name of fostering competition and on the other hand, effectively circumvents competition by aggregating efforts which are already being, or capable of being performed by a large number of small businesses.

Some people might argue that the above type of contracts provide ample opportunities for minority and other small business contracting under the provisions of Public Law 95-507. This brings me to my second problem to which I would like to draw your attention.

I have termed this problem, forgotten promises. This issue relates directly to section 8(d)(11) of the Small Business Act. Under the provisions of this Public Law, a prime contractor under conditions well spelled out in the law, must submit a plan for the use of small disadvantaged businesses. Most prime contractors no longer find any problem in doing this and frankly "canned" plans are available for sale. And also Government procurement personnel are by now, quite skilled in recognizing the piece parts of the elements of a good plan. Unfortunately the law requires only a "best effort" by the prime contractor to demonstrate his compliance with the law.

Gentlemen, there is really no teeth in the law as evidenced by the fact that compliance is not built into such important things as the fee structure or into contract renewal clauses or other incentives. The ultimate evidence that the law is being overlooked and the promises forgotten is that Government agencies are incapable, without a great deal of special analysis, of reporting a prime contractor's adherence to his plan. In other words, did the contractor do what he said he would, and if not why?

We do not blame the already overworked Government procurement personnel. We do find fault with a law that promises so much and does not provide an effective means to insure that its intent is being met by actual subcontracting and not just a plan to subcontract.

The era of "just best efforts" must come to a close. Small disadvantaged businesses are plentiful. Our skills, education levels, experience, and contribution toward our economy can no longer be shrugged off. Our black, Hispanic, women, and other minority group brothers and sisters have a contribution to make, both as prime contractors, underline prime contractors, as well as subcontractors.

As a small, minority-owned, high-technology company, we sincerely wish to continue to do business with the Federal Government. We fully support H.R. 2133 but also suggest that it more clearly reflect the two issues. One, the unjustified Federal Government contract aggregation issues, and two, the current weaknesses in small subcontracting that I have only scratched the surface today. I sincerely appreciate your attention. Thank you, very much, Mr. Chairman.

Mr. **Bedell**. Thank you, Mr. Otero. We will now hear from Mr. Engfer.

Mr. **Engfer**. Thank you.

TESTIMONY OF CHARLES W. ENGFER, VICE PRESIDENT, LYNMAR SALES, INC.

Mr. **Engfer**. Mr. Chairman, and members of the committee, good afternoon. I am Charlie Engfer and I am the vice president of Lynmar Sales, Inc., in Fairfield, N.J., and a trustee and treasurer of the National Small Business Government Contractors Association. Also with me on my right here today, is our association's director, Lydia Bashwynner.

Thank you for the opportunity to discuss with you today, H.R. 2133 and related legislative proposals to remove obstacles faced by small firms wishing to do business with the Federal Government. Lynmar Sales is a small business engaged in selling spare parts, particularly shipboard pump and turbine parts to the Department of Defense through the Navy and the Defense Logistics Agency. As such, we are intimately familiar with the Defense acquisition regulations and DLA policies concerning procurement. Personally, I have been engaged in Federal Government contracting for the past 15 years. At this time, I would like to specifically address two legislative proposals, H.R. 2133 and H.R. 3784.

As proposed, H.R. 2133 would amend section 15 of the Small Business Act by prohibiting a Federal agency from soliciting an offer from only one source or negotiating with only one source for the purchase of spare or replacement parts unless the head of the buying activity certifies for each procurement that one or more of the listed exemptions is applicable.

I would like to suggest that this subcommittee exercise its oversight function to periodically review the agency head's certification to insure that these exemptions are not being abused. Additionally, I believe the statute should also include a list of reasons that do not justify sole source procurement. It should not be assumed that since those five exemptions are the only ones that exist statutorily that any other excuse is invalid. Sometimes it is just as important to spell out what is not an acceptable justification as well as what is.

Let me provide some examples of excuses that I have heard from procurement officials which have prevented me from selling to the Government. In order to make these examples more meaningful, I should provide some background concerning the manner in which Lynmar Sales sells to the Government.

Basically, Lynmar Sales' method of operation is as follows: We acquire a solicitation either through the Commerce Business Daily, a bid abstract service or direct contact with the buyer. We quote on items for which data has been acquired from the Government. This data may have been acquired some time prior to the issuance of the solicitation, or requested anew with the combined package. Lately, I have found that items that I have both previously quoted and furnished as per data acquired from the Government are now being purchased on a sole source basis via the manufacturer's code and part number. This is an indication that the necessary technical data is not in the hands of the procuring agency when I know for a fact, that the data is accessible and that these items should be procured competitively in accordance with that data.

The transfer of procurement responsibility from the military services to DLA, has been an acknowledged cause of this problem with resulting lowered competition rates at the DLA centers. This is commonly known as the "we do not have the data excuse." Along the same lines, I know that data rights have gone from unlimited to limited by virtue of a later revision being submitted to the services by the original equipment manufacturer. This data has been purchased by the Government in the original parent equipment contract. The problem here is that when the services receive a later revision, the earlier, unlimited data is discarded and replaced with data bearing proprietary legends which is, as I said earlier, for the most part, going unchallenged.

Then the procuring agencies say that I do not have the latest revision and I cannot bid on the item anyway because it is proprietary. Another problem is that frequently DLA, by direction of the military services, has refused to either review or accept alternate offers using the unjustified excuse that the item has critical application. This lends credence to the theory that a small business interested in manufacturing the subject item is incapable of doing so.

As the GAO has ruled, the critical nature of an item does not preclude competition. Many of the items that I supply are indeed critical to the function of parent equipment. Since I am required to provide the same quality assurance methods as my larger competitors, I fail to see the reason that I am precluded from bidding on critical items. The most frustrating of all situations is to have been accepted as an alternate source for an item, receive a contract on that premise, perform the work and then have the Government come in with a stop work order, using the excuse that the supplies are no longer required. Then after advertising to the Government that the charges will be 100 percent by virtue of my having the parts completely manufactured, the Government incredibly terminates the contract for convenience regardless of the cost.

A termination for convenience is legitimate if the Government truly no longer requires the parts. However, in this case, the requirement still stands and I have been told by the terminating contract officer that the supplies are now deemed critical and will be purchased on a sole source basis. The Government will still have to pay 100 percent of my charges and then reprocure from a firm whom they consider to be the only acceptable source for the critical item.

I have been manufacturing this item since 1976 and have yet to receive any indication that my product is deficient. This item being of a critical nature is one that for future procurements will require testing. I feel that before a cancellation of this type should proceed, that I should be given the opportunity to prove the item is truly an acceptable alternate. I do not have to tell you that this type of situation occurs all too frequently and consequently costs the Government millions of dollars.

At this time, I would like to discuss H.R. 3784, a bill introduced by Congresswoman Barbara Boxer. As a small business Government contractor, I was pleased to see this legislation which I believe will have an immediate and practical effect. Briefly this bill requires SBA to assign procurement center representatives or PCR's to all major procurement centers whose sole function will be to screen items for potential break out from sole source to competitive procurement or direct purchase from the actual manufacturer. The bill also requires DOD to assign four technical advisers to assist each PCR with his or her tasks. The following are just a few examples of savings to the Government when these items that I supplied were broken out from sole source to competitive procurement.

The first item was an impeller. The OEM's total price was $100,800 and mine was $54,880 with a savings of $45,920. The second item also an impeller, had an OEM total price of $51,246 and my price was $14,850, with a total savings of $36,396. The last item was a coupling and the OEM price was $60,450 and my price was $29,168 with a savings of $31,281. This amounted to a combined savings on only three items of $113,597.25. Gentlemen, this does not reflect one full year of purchase of this particular item.

However, I have experienced on many occasions the break back of items from competitive to sole source procurement. Below are a few examples of how much this practice has cost the Government. The item again is an impeller and was awarded to the original equipment manufacturer at $171,072 and my offer was $69,768. The amount of the overbuy to the OEM was $101,304. The reason DLA gave for breaking back this particular item was "alternate offers not accepted; critical item." This is contrary to the GAO decision and DLA's own policy that it will always review and evaluate an alternate offer as long as it is accompanied by the appropriate technical data.

One more example, the last item on this is an interstage ring which was awarded to the original equipment manufacturer on a blanket ordering agreement totaling $491,350 and our offer for that same item was $78,900 and the total overbuy on this item, was $412,450. There were 263 pieces.

In this case, it was Navy Ships Parts Control Center, SPCC who broke back the item to sole source using the same reason as in the previous example.

I have with me a copy of the drawing used to manufacture this item if anybody would care to see it. As far as I am concerned the more qualified personnel assigned to screen items for potential break out, the better. As an alternate supplier of parts, I can see how my business will increase dramatically if even a small percentage of the items I am capable of supplying are purchased competitively. This will naturally result in lower prices to the Government and improve leadtimes and equal quality. The point that I am making is that break out must be encouraged, but we must also make sure that what gets broken out, stays broken out.

Once again, thank you for the opportunity to discuss obstacles faced by small business in selling to the Federal Government. I hope you will be successful in removing some of the barriers to open competition. You can count on my support, and the support of the National Small Business Government Contractors Association in your efforts. I will be pleased to answer any questions that you may have.

[Mr. Engfer's prepared statement follows:]

PREPARED STATEMENT OF CHARLES W. ENGFER, VICE PRESIDENT, LYNMAR SALES, INC.

Good morning. My name is Charles W. Engfer. I am Vice-President of Lynmar Sales, Inc., Fairfield, New Jersey and a Trustee and Treasurer of the National Small Business Government Contractors Association. Thank you for the opportunity to discuss with you today H.R. 2133 and related legislative proposals to remove obstacles faced by small firms wishing to do business with the Federal Government.

Lynmar Sales is a small business engaged in selling spare parts, particularly pump and turbine parts, to the Department of Defense through the Navy and the Defense Logistics Agency (DLA). As such, we are intimately familiar with the Defense Acquisition Regulations (DAR) and DLA policies concerning procurement. Personally, I have been engaged in federal government contracting for the past fifteen years. At this time, I would like to specifically address two legislative proposals, H.R. 2133 and H.R. 3784.

H.R. 2133

As proposed, H.R. 2133 would amend Section 15 of the Small Business Act by prohibiting a Federal agency from soliciting an offer from only one source or negotiating with only one source for the purchase of spare or replacement parts unless the head of the buying activity certifies for each procurement that one or more of the listed exemptions is applicable. I would like to address each of these exemptions individually.

(1) The first exemption which allows sole source procurement, if the agency believes that the parts are available from only one source, is an area for much potential abuse. Too often this determination is left to the discretion of procurement officials who, based on past procurement history, will believe there is only one source available. There should be a more positive statement to the effect that the agency is required to actively seek out new sources of supply, regardless of the Procurement Method Code (PMC) assigned to each item.

(2) The second exemption permits sole source procurement when the requirement is urgent. This exemption appears vague and without sufficient definition, and as such, can also be subject to abuse unless precisely defined. Furthermore, the reason procuring officials go to a sole source when an item is urgently needed is because there is insufficient time to evaluate an alternate offer. I suggest that if a requirement is truly urgent that the evaluating personnel be alerted to the situation and perform the necessary evaluation in an expeditious manner. This, in my experience, rarely occurs.

(3) The third exemption permits sole source procurement where disclosure of the agency's needs to more than one source would compromise the national security. I find it difficult to envision a situation where the purchase of spare parts must be made from only one source because of a threat to national security. Sometimes, in listing exceptions to a rule, there is a tendency to try to cover all possible scenarios, which can result in obscuring the original purpose of the rule. In my opinion, this is one of those instances.

(4) The fourth exemption allows sole source procurement where a party has a legitimate proprietary interest in the parts or their manufacture and the agency

would be legally liable to such party if it purchased the same or like parts from another party. I believe that the biggest obstacle to open competition in spare parts procurement concerns the issue of proprietary data. If a company has developed an item at its own expense, then I believe it has a valid claim of proprietary rights. However, in many many instances, large businesses routinely slap a proprietary data legend on drawings, technical manuals and the like, without legal justification. The problem is that many or most of these proprietary rights claims go unchallenged. When the procuring agency attempts to satisfy a requirement, the drawing, for example, is checked and if stamped "proprietary", the procurement will be made on a sole source basis. I realize that the proposed legislation does state "a legitimate proprietary interest", which is necessary to protect those firms with valid claims. But nowhere does the bill address the process of checking to determine which claims are valid and which are not. Procuring agencies must be required to verify each claim of proprietary rights, and further, should prosecute those firms which the agency has determined have purposely and fraudulently presented a claim of proprietary rights. This practice has cost the American taxpayer billions of dollars by perpetuating sole sourcing when the items can actually be procured through open competition. As a small business government contractor, I urge that this Subcommittee include an amendment to the Small Business Act to require procuring agencies to verify each proprietary data rights claim. I strongly suggest that if you do, billions of dollars will be saved.

(5) The fifth and final exemption states that sole source procurement is permitted if required by statute through another agency or a specific source. Again, as with exemption three, we are talking about spare parts, not entire major weapons systems, and as such, I feel this exemption may be unnecessary. I would like to suggest that this Subcommittee exercise its oversight function to periodically review the agency head's certifications to insure that these exemptions are not being abused. Additionally, I believe the statute should also include a list of reasons which do not justify sole source procurement. It should not be assumed that since those five exemptions are the only ones that exist statutorily, that any other excuse is invalid. Sometimes it is just as important to spell out what is not an acceptable justification as well as what is.

Let me provide some examples of excuses I have heard from procurement officials which have prevented me from selling to the Government. In order to make these examples more meaningful, I have to provide some background concerning the manner in which Lynmar sells to the Government.

Basically, Lynmar Sales method of operation is as follows: We acquire a solicitation either through the Commerce Business Daily, a bid abstract service or direct contact with the buyer. We quote on items for which data has been acquired from the Government. This data may have been acquired sometime prior to the issuance of the solicitation or requested anew with the current bid package.

Lately, I have found that items I have both previously quoted and furnished as per data acquired from the Government are now being purchased on a sole source basis via manufacturer's code and part number. This is an indication that the necessary technical data is not in the hands of the procuring agency, when I know for a fact that the data is accessible and that these items should be procured competitively in accordance with that data. The transfer of procurement responsibility from the military services to DLA has been an acknowledged cause of this problem with resulting lowered competition rates at the DLA centers. This is commonly known as the "we don't have the data" excuse. Along the same lines, I know that data rights have gone from unlimited to limited by virtue of a later revision being submitted to the services by the Original Equipment Manufacturer (OEM). This data had been purchased by the Government in the original parent equipment contract. The problem here is that when the services received a later revision, the earlier, unlimited data is discarded and replaced with data bearing proprietary legends, which as I said earlier for the most part go unchallenged. Then the procuring agency says that I do not have the latest revision and I cannot bid on the item anyway because it is proprietary.

Another problem is that frequently, DLA, by direction of the military services, has refused to either review or accept alternate offers using the unjustified excuse that the item has critical application. This lends credence to the theory that a small business interested in manufacturing the subject item is incapable of doing so. As the General Accounting Office has ruled, the critical nature of an item does not preclude competition. Many of the items I supply are indeed critical to the function of parent equipment. Since I am required to provide the same quality assurance methods as my larger competitors, I fail to see the reason I am precluded from bidding on critical items.

The most frustrating of all situations is to have been accepted as an alternate source for an item, receive a contract on that premise, perform the work, and then have the Government come in with a stop work order, using the excuse that the supplies are no longer required. Then, after advising the Government that the charges will be 100% by virtue of the parts being completely manufactured, the Government incredibly terminates the contract for convenience, regardless of the cost. A termination for convenience is legitimate if the Government truly no longer requires the parts. However, in this case, the requirement stands, and I have been told by the TCO that the supplies are now deemed critical and will be purchased sole source. The Government will still have to pay 100% of my charges and then reprocure from a firm whom they consider to be the only acceptable source for the critical item. I have been manufacturing this item since 1976 and have yet to receive any indication that my product is deficient. This item, being of a critical nature, is one that for future procurements will require testing. I feel that before a cancellation of this type should proceed that I should be given the opportunity to prove the item is truly an acceptable alternate. I don't have to tell you that this type of situation occurs all too frequently and consequently costs the Government millions of dollars.

H.R. 3784

At this time, I would like to discuss H.R. 3784, a bill introduced by Congresswoman Barbara Boxer. As a small business government contractor, I was pleased to see this legislation, which I believe will have an immediate and practical effect. Briefly, this bill requires SBA to assign Procurement Center Representatives (PCRs) to all major procurement centers whose sole function will be to screen items for potential breakout from sole source to competitive procurement or direct purchase from the actual manufacturer. The bill also requires DOD to assign four technical advisers to assist each PCR with his or her task.

The following are just a few examples of savings to the Government when these items I supplied were broken out from sole source to competitive procurement.

Item	OEM total price	Our price	Savings
Impeller	$100,800.00	$54,880.00	$45,920.00
Impeller	51,246.00	14,850.00	36,396.00
Coupling	60,450.00	29,168.75	31,281.25
Total			113,597.25

However, I have experienced on many occasions the "break-back" of items from competitive to sole source procurement. Below are a few examples of how much this practice has cost the Government.

Item	Awarded to OEM at	Our offer	Overbuy
Impeller	$171,072.00	$69,768.00	$101,304.00

The reason DLA gave for "breaking back" this particular item was "alternate offers not accepted—critical item". This is contrary to GAO decision and DLA's own policy that it will always review and evaluate an alternate offer as long as it is accompanied by the appropriate technical data.

Here is another example:

Item	Awarded to OEM on BOA	Our offer	Overbuy
Interstage ring	$491,350.00	$78,900.00	$412,450.00

In this case it was Navy Ships Control Center (SPCC) who "broke back" the item to sole source, using the same reason as in the previous example.

As far as I am concerned, the more qualified personnel assigned to screen items for potential breakout, the better. As an alternate supplier of parts, I can see how my business will increase dramatically if even a small percentage of the items I am capable of supplying are purchased competitively. This will naturally result in lower prices to the Government, improved lead times, and equal quality. The point I am making is that break out must be encouraged but we must also make sure that what gets broken out, stays broken out.

Once again, thank you for the opportunity to discuss obstacles faced by small business in selling to the Federal Government. I hope you will be successful in removing some of the barriers to open competition. You can count on my support and the support of the National Small Business Government Contractors Association in your efforts. I will be pleased to answer any questions you may have.

Mr. BEDELL. Mr. Britt?

Mr. BRITT. Thank you, Mr. Chairman.

The break back that you mentioned in your testimony seems like a tide going in the wrong direction. How do you explain a break back situation where you would overbuy by $100,000 and in another example $400,000? What would be the motive, what would be the explanation of taking a bid, for an item that is being competitively bid, as in the case of the interstage ring, and paying that much more for the product?

Mr. ENGFER. Well, I feel personally that OEM pressure on the Government is responsible for a lot what I have shown you here. The OEM may go back to the Government and say, listen you have been buying this from so and so and we do not believe that you are buying it from the latest revision of the drawing that we have in our files and second, are you sure that you are getting the quality that we can supply to you?

This seems to work very well with the Navy for some reason and the Navy being the service responsible for this item, tends to get back to DLA and shut off competition. Now, I do not know the system and how it works, but this item, my price today would be $300 for an item like this. This item sold only 2 years ago for approximately $122.

They sent that out without putting it in a solicitation. That was ordered directly from the OEM on a blanket ordering agreement. A solicitation was never submitted for it.

Now, as far as the explanation and the whys and wherefores as to why the Government did this, I gave you the best reason that I can.

Mr. BRITT. Is this infrequent, I mean we are hoping to go in the other direction, to break out and not break back. Are you seeing much of this type of thing happening? Where is it taken out of competitive bidding?

Mr. ENGFER. You see plenty of it, yes. In our business we have many items that have been approved in the past that are currently being broken back to the manufacturer. We do not have the reasons for it other than to say that the item is critical.

The Navy, well, I should say the GAO and the Navy together decided that the only critical items on pumps for Navy use or otherwise, will be impellers, casings, and defusers. We are still having problems selling more common items such as shaft sleeves, casing rings, impeller rings, seal cages, and the like. There seems to be no line drawn although the line was drawn, nobody seems to be heeding to the advice of the GAO and in particular the Navy.

Mr. **Britt**. We have talked about quality today, and again I think that is the key issue that needs to be discussed, price and quality. Mr. Otero, would you comment, do you sell to OEM's products?

Mr. **Otero**. No. Our firm is an architecture and design firm, primarily in the computer and telecommunications arena. Speaking to the issue of quality, which I guess is your gist, frankly some of us who have been in the business of perhaps working for large corporations and do not feel that our bodies have changed significantly do not really feel that there is any necessarily intrinsic difference between a large business and a small business relative to quality.

Most jobs tend to be broken down into small parcels of things that have to be done whether they are done by Boeing or done by RJO Enterprises, and whether it is an analysis of a satellite system done by Boeing or RJO, it is still done by three or four people. The subject matter of concern is whether or not those three or four people in either circumstance are qualified to do that job.

I frankly do not see, although it is an unfortunate inference, that small business by virtue of being small has inherently a lesser quality, when it in fact, I think that the truth of the matter would bear out that quality is at least equal.

Mr. **Britt**. Do you supply OEM's that are later integrated?

Mr. **Engfer**. Do I supply OEM's who are selling to the Government?

Mr. **Britt**. Yes.

Mr. **Engfer**. I do not.

Mr. **Britt**. You do not? OK. But basically, do you feel that your standards meet the quality control?

Mr. **Engfer**. Do we have the same quality?

Mr. **Britt**. Yes.

Mr. **Engfer**. Well, we are basically responsible for the same inhouse inspection systems as are the larger corporations. We have to conform to Mil. I 45208 in almost every Navy contract that we receive. Anything coming in from DLA we have to respond to QAP 0140 which is a quality assurance provision. There is also QAP 141. We also have our own in-house inspections. I would say that between 50 and 60 percent of our work is inspected by a Government QAR at the plant.

Quality is something that the Government should be concerned with, and I can appreciate that, but I do not believe that that issue should just be brought upon the small business. We heard before, an example that 2,200 items were brought back to the OEM versus 50 or 60 to the small business. The difference with the small business and the OEM and the retaliation thereof, is that small business as a whole is blamed for a few small bad guys. Whereas if the larger business has a problem with quality or a particular part that they have sold to the Government, not only is his neighboring community not affected, he is not even affected. A small businessman cannot get away with that. So I feel for the most part, you may find that you will get better quality from a small businessman because he has got a lot more to lose.

Mr. **Bedell**. Mr. Olin?

Mr. OLIN. Thank you, Mr. Chairman. I would like to ask Mr. Engfer if he could clear up in my mind the relationship between the military procurement and DLA? I am not thoroughly acquainted with that. Tell me more about that.

Mr. ENGFER. Well, there was a transfer of items, I will use this as an example, a transfer of items was made from Mechanicsburg to Defense Logistics Agency, DCSC in Columbus, Ohio.

Mr. OLIN. Is that a central defense purchasing operation?

Mr. ENGFER. The DLA, Defense Logistics Agency, is a procurement agency.

Mr. OLIN. That was all the services?

Mr. ENGFER. Excuse me?

Mr. OLIN. Does it cover all the services, that is, the different——

Mr. ENGFER. I believe that it covers the Army, the Air Force, and the Navy, yes, I guess so. It covers all the services.

When this transfer was made a lot of what was transferred, the technical data that was with the items at the military level or at SPCC, never accompanied the information that was sent to the DLA. Consequently many of the items being bought now from DLA are being bought by code and part number because the data does not exist at the center. I am then forced to alert them to this situation and I am finding more and more difficulty in getting my part numbers or my data approved, when in fact, I received the data that I have in-house from the Navy Department in the first place.

Mr. OLIN. What response do you get when you have the situation where you supplied the part previously and then you get perhaps a later revision coming through? Could it be a very minor kind of an item?

Mr. ENGFER. That can vary. As before I explained, we have the critical item and the noncritical item. In the case of a noncritical item, I might have no problem at all. I only might have to say that this item has been previously furnished by this firm, and I may get a contract out of that by virtue of that statement. In another case, where the critical item factor falls into place, the impeller, diffuser, or casing, the data that I have received from the Navy Department, and have manufactured for the Navy Department, well, I will submit it to them and then because of the fact that it is a critical item, the DLA technicians are not given the responsibility for evaluation. They must in turn send it back to Mechanicsburg, which is where the item was transferred from, and Mechanicsburg then sends it to NAVSEA in Washington, D.C., for evaluation.

Now, this process most of the time takes no less than 6 months and sometimes as long as a year. Many times procurements are made from the OEM's because of that time span. Many times after the 6 months to a year period of evaluation, I find that I am not an acceptable source.

Mr. OLIN. Are you saying also that some of these revisions could be part of a game that is being played to get things off of multiple sourcing?

Mr. ENGFER. Yes, sir. I sometimes believe that.

Mr. OLIN. Do you have any hard facts of any case that you have mentioned?

Mr. ENGFER. I have a situation with a shaft that is being made by us right now. That particular shaft is being made to a revision

D3, which is nonproprietary. I submitted revision D3 to the DLA who did not have the data. Now, I was in the process of manufacturing this shaft for Mechanicsburg before the transfer took place. The transfer took place and it is now being procured by the DLA. I have submitted that data to DLA, who in turn is sending it to Mechanicsburg. I have been informed that there is a later revision, D6, that has been considered proprietary. I am still in the process of trying to convince the various activities that the initial data received on this case is nonproprietary.

Mr. OLIN. Do you have any suggestions as to how you can avoid this situation?

Mr. BEDELL. That is called getting the shaft.

Mr. ENGFER. That is called not getting the shaft.

Mr. OLIN. I am trying to find out who is getting the shaft here.

Mr. ENGFER. Do I have suggestions? Probably about 3,000 but seriously how could this continue to go on; we did see the Weinberger memorandum. Everybody pretty much knows what is in that and this business continues on and on and on and it is such a burden to the small businessman because from one day to the next——

Mr. OLIN. But what you are describing could be this natural course of the evolution of a part that design improvements are called for—for whatever it's given—and you do not know what the source of those are, and you do not know for sure whether those are frivolous or whether it is a game that is being played or whether it is a legitimate change. There is no way, I do not think that there is any way that you could know.

Mr. ENGFER. In answer to that, yes, there are ways that you could know. Revisions that have been given or made by Original Equipment Manufacturers and resubmitted to the Navy have been inconsequential to the actual manufacture of the part many times. They might change an inspection point.

Mr. OLIN. I guess that my question is, In cases like that, where it looks like the change from multiple source to sole source is a frivolous or a contrived thing, do you get reasonable response to your request to bid in those cases?

Mr. ENGFER. Most cases, no, sir.

Mr. OLIN. In most cases, you do not?

Mr. ENGFER. No. I do not.

Mr. OLIN. I mean I will stop that line of questioning. I want to ask Mr. Otero, on the example that you gave of aggregation, it really escapes me how that was really proving your point? You talked about a 10-year procurement of a major global aerospace communications system and that does not strike me as the kind of a thing that you would expect a small business to be selected to tackle.

Mr. OTERO. That is precisely sir. Previously the Federal Aviation Administration through the handling of literally dozens of complimentary programs, radars, computers communications systems, light service stations, and what have you, had these systems designed, architected and furnished and installed, integrated by over 100 contractors. Now, it is proposed as evidenced by this procurement, that a single integration contractor who will be omnipotent obviously because he will have to be absolutely knowledgeable in the broadest spectrum of——

Mr. OLIN. Consider some Government agency designing this system, they are contracting out the design and description and so on, general contracting——

Mr. OTERO. In essence the design, the architecture, the management, and basically some people have even argued that the management of the agency. That is a point of difference but what I am speaking to specifically——

Mr. OLIN. But that is a legitimate difference that they could make; is it not?

Mr. OTERO. Well, certainly any decision is legitimate. The question is whether or not if in fact, this type of work had been performed very well by over 100 big and small businesses previously, whether or not that agency was not in fact, circumventing the competitive push within the Government, as it was certainly doing some previous damage to small businesses by aggregating these 100 or so contracts into a single award.

Mr. OLIN. You did not really demonstrate that that was the case. I mean, the agency might decide that it was not very good at designing these big systems, and managing them and would contract that out to somebody who had more experience. That is quite a logical thing for them to do in some cases.

Mr. OTERO. I think that everything is a matter of degree, as you well know, sir. It is sort of like contracting out the operation of the Air Force. You certainly would not want to contemplate a single contractor who is going to manage the Air Force's systems——

Mr. OLIN. No, but to put in a communications system you might——

Mr. OTERO. Sir, we are not talking about a communications system. We are talking about virtually every system that the Federal Aviation Administration owns, operates, designs, and what have you. We are talking about air route traffic control centers. We are talking about air-to-ground communications, intrafacility communications, flight service stations.

Mr. OLIN. They are putting the whole thing out to one contractor?

Mr. OTERO. It is going to be called the National Air Space System which is a collective term that umbrellas all of the systems that the Federal Aviation has now and will have in the future to provide air traffic control. We are not talking about communications or computers. The analogy, it is like a B–1, gee whiz you can only have Boeings, and Lockheed has bid on B–1's, we are talking about in essence an entire agency subcontracting——

Mr. OLIN. I do not want to pursue this too far but it is not immediately obvious to me that it is necessarily a bad decision or that it was done to avoid ultimately subcontracting portions of that system to small business.

I just question whether your example is really proving your point. I would expect in a case like that, where they choose to contract out the basic design of a very complex system, possibly bring the best talent to bear on it that they can find, that ultimately that prime contractor would break down and let out a good number of subcontracts based on the major design.

Does it look like they are going to be doing that, that there will be a small business participation ultimately?

Mr. **Otero**. Well, of course, sir, only time will tell. But the history of Public Law 95-507 has not been a very good one. In essence, whereas prime contractors do submit very well spelled out plans, I would grant you that if the Federal agency in this specific case, DOT cannot even tell you whether or not their current contracts of contractors are, in fact, living up to the letter of their plan, then it would be problematical that in the future they would even do better. There is no doubt that there will be subcontracting here as evidenced by the fact that primes have dealt with other large primes.

Mr. **Olin**. I would have been more impressed if you had used examples of aggregation where it was more immediately clear that this aggregation certainly would not make any sense. However, I remain unconvinced there. Thank you, very much, Mr. Chairman.

Mr. **Bedell**. Thank you, Mr. Olin. Mr. Engfer, what should we do legislatively in order to solve the problem that you brought so clearly to our attention? One Senate bill apparently says that when the Government procures any item they will require the drawings on both the item and the parts from their prime manufacturers so that they would have them to solicit bids? Would that take care of your problem or would you still have the problem of the prime contractor making some changes, or would you say that if there were any changes made, they would have to furnish the Government drawings on such changes?

Mr. **Engfer**. This may for the future eliminate some of the problems we have been having with regard to new equipment that is being built. I suggest maybe a screening of all technical data as far as later revisions go. PCR's if they exist in the DLA or in the services, will be a great help, in weeding that type of information out and being sure that the information that they are receiving is, in fact, proprietary or is not proprietary. This way it will not lose its competitiveness type of code or PMC code of a 1G or what have you.

Mr. **Bedell**. But in business I do not think that anything is proprietary unless it can be patented, is it?

Is there anything in the world that prevents me from copying anything that you do if it is not patented?

In regular business, not to my knowledge.

Mr. **Engfer**. Are you speaking of copying a drawing of another manufacturer that——

Mr. **Bedell**. No; I am speaking of copying a refrigerator if somebody makes one or copying that glass right there, or copying that speaker that you are speaking to or the chair that you are sitting in. If it is not patented, as far as I know, there are no restrictions to prevent me from taking a chair exactly like the one that you are sitting in and going out and trying to sell it competitively.

Mr. **Engfer**. My problem is the nonexistence of that data that I would be using to manufacture the part. That the Navy has and does not utilize for manufacturer. They will go strictly sole source; that is my problem.

Mr. **Bedell**. I understand your problem and the chairman may be a little more radical on this than some of the members of the committee, but it would appear to me that if a supplier cannot get a patent on what he is supplying to the Government then there is no reason that I know of that he should be considered the sole supplier or should have priority.

Mr. ENGFER. I agree with that 100 percent then. If the Government or the Navy Department would like to make everything that they buy competitive, I have no objections to this. I do not know if I am trying to answer your question or make a statement. I do not exactly know what you are asking of me.

Mr. OLIN. Would the gentleman yield?

Mr. BEDELL. Sure.

Mr. OLIN. Perhaps I could shed a little light on this. I think that what the witness is saying is that the Government procurement people have a part number, a 10-digit number and they are buying to that number. They do not have the drawing that describes that part necessarily.

Mr. ENGFER. Exactly.

Mr. OLIN. The manufacturer says that this drawing is proprietary and it is mine, and the purchasing man then has no ability to put that drawing number out for bids, unless he can obtain the full description from the manufacturer. There is a great reluctance on the manufacturer's part to release that information. It is not released unless the Government demands it and has that requirement in its basic contract with him. You are absolutely right about the question of proprietorships. But whether it is proprietary or not does not make any difference if the manufacturer does not release the information as to how you make the part.

Mr. BEDELL. Let me throw out a wild suggestion here. What would be the result if we were to legislate that anyone interested in supplying items to the Government could purchase a sample or could obtain a sample of that item from the Government if they made a deposit of twice the Government cost for the item for such time as they had it in order that they would—you do not need a drawing if you have got the part—to determine whether or not they could duplicate the part and were interested in selling it?

What would be the result of that?

Mr. ENGFER. That situation exists. It is called the bailment program at DLA and DCSC headquarters in Columbus, Ohio. It is called the bailment program. You can go in and remove an item from stock. I do not know how selective the acquisition of those parts is. I do not know if they would say, well you can remove these and you cannot remove those.

Mr. BEDELL. Yes.

Mr. ENGFER. I do not know how selective, but that situation does exist.

Mr. BEDELL. Would that solve the problem? I can understand why somebody might not give somebody a drawing but if I bought a part, it seems to me that if I were a domestic manufacturer and I were interested in obtaining these cups and I bought them from somebody else, I would probably send them to four or five people and ask them what they could furnish these cups for. Is there anything wrong with doing that in the Defense Department?

Mr. OLIN. It is not that there is anything wrong with it, it is just that it is perhaps a little more difficult than that. You would have to know the tolerances and in some cases, you would have to know how to check the materials that are going into it. It is not quite as easy as just seeing the part and being able to copy it.

Mr. BEDELL. Good point. I appreciate it.

Mr. ENGFER. There are lesser technical parts that you can do that with but in the cases of pumps where tolerances are required, it is impossible.

Mr. BEDELL. Good enough, thank you.

Mr. BRITT. I basically concur in terms of the abuses of the proprietary items but I do think that there is some policy reason for having some incentive for businesses to share items in which they have spent a great deal of their own money for research and development for a limited period of time. I think that where the abuses have occurred is where the Federal Government has spent quite a bit on that research to develop those items and yet the OEM has still said, this is a project item. So it seems to me like a compromise in which a business would have the incentive of giving this research and development for use by the Federal Government if they can have it proprietary for 5 years, might be a potential compromise there.

Otherwise, there is no incentive for businesses to share their research and development with the Government.

Mr. BEDELL. Unless the Government pays for it.

Mr. BRITT. That of course is a way to do that. It is just that sometimes the price would be—there are some estimates that would show that the Government would be paying exhorbitant amounts of money to buy all the technical data that would be available, that would be required if they had proprietary, did away with proprietary interests.

Mr. BEDELL. Mr. Otero, in your testimony you gave an example here, is that the one that Mr. Olin was talking to you about?

Mr. OTERO. Yes, that was, sir.

Mr. BEDELL. OK.

Apparently the staff here has a brother who is in the computer business and if I understand him correctly, he says that normally when they sell computers to the Government that there is a requirement that the people who sell the systems cannot get the contract to operate them. Is that what you understand?

Mr. SCHAEFER. People that design the system usually are not given the follow on contract to run the system because there would be incentive for the people to design the system to design a system that only they could operate, they would be too big.

Mr. OTERO. The example that I am speaking about is basically the architecture and design of the next generation FAA national air space system. Yes, there are prohibitions in that contract that support contract of 1,000 man-years per year, by far the largest contract that the FAA has ever let.

Mr. BEDELL. So the people that do install it will not be able to operate it?

Mr. OTERO. Architect will not be able to operate it and in fact would not be able to supply it. The difference being the architect and the design in the provision. The difference would be, for example, a Boeing or Lockheed would do some design, but IBM would be the provider. Boeing therefore could not use Boeing computer services to be the provider of the computer portion of that.

I think that there is a distinction that should be made clear. We are not talking about a system, except the word system needs a lot of definition. We are talking about a macro system when we are talking about the National Air Space System. We are talking about everything that you will ever see, touch, or smell that the FAA will ever use from now on to the year 2000 to control the movement of air transportation. So we are not talking about a selected piece of the FAA, a radar system or a communications system, we are talking about virtually it all. That is where I think that the aggregation problem comes about because heretofore literally hundreds of small and large companies have in fact, been supplying this equipment, and these services rather to this agency.

Mr. BEDELL. We thank you for your testimony and appreciate the fact that you have been here.

Our next witness is Frank Miller, the SBA Procurement Center representative in Tinker Air Force Base.

I understand you do not have a prepared statement, Mr. Miller. We appreciate your waiting so long to testify.

[Mr. Miller was sworn.]

Mr. BEDELL. We would request that you speak off the cuff and tell us a little about what you do and how you operate.

TESTIMONY OF FRANK G. MILLER, SBA BREAKOUT PROCUREMENT CENTER REPRESENTATIVE, TINKER AIR FORCE BASE

Mr. MILLER. Thank you, Mr. Chairman. In the way of credentials, I think I would reread from the testimony I gave last time I was up here. I think Mr. Britt and Mr. Ray were on the panel at that time.

My name is Frank Gary Miller. I have been the Small Business Administration Breakout Procurement Center representative assigned to the Oklahoma City Air Logistics Center for the past 4 years. The principal basis for my employment there was 1 year as a design engineer with the Naturizer Corp., 2 years as a draftsman with the Oklahoma State Highway Department. I hold a bachelor of science in aeronautical engineering and I worked for the Boeing Airplane Co. for 3 years as a design engineer.

I also spent 18 years with the Oklahoma City Air Logistics Center as one of the regional procurement engineers. Since SBA, I finished a masters in public administration and I developed the vendor identification program and the part number advanced procurement planning list program that is now implemented in the Oklahoma City Air Logistics Center.

This VIP program and the Pineapple program are currently netting the Air Force about $4 million a quarter savings. So from these credentials, hopefully you will realize that for the past 22 years I have been very highly active down in the trenches in the breakout program within the Air Force.

We hear a lot in the news, a lot of negative news, about a 4-cent diode that the Navy paid $100. That is a very negative attitude. What I would like to do today is show you some examples and I have set some pictures on your desk up there of the parts that I talk about to show you some of the positive things that the Air Force is doing at Oklahoma City in the way of breakout.

The first picture you have is this little piece of sheet metal. Does everybody have a set of pictures?

Mr. BEDELL. Does everybody have them or am I the only one? OK.

Mr. MILLER. It seems like everybody goes to the cartoon first.

This part was set aside for small business at Oklahoma City. A buy was made on 160 pieces. The buyer got 19 bids and paid an outrageous $3.80 a piece for them. However, on the previous buy they came from the original equipment manufacturer who succeeded in soaking us for $16.46 a piece. Due to the competition breakout, we saved $2,000 on the one buy which was $12.60 per part savings.

The second part I brought to show you is a rubber door gasket. It is made out of the same sort of stuff that bicycle tires are made out of. This morning, Tom Rankin mentioned packaging. This thing came packaged in a cardboard box and it was inside a polyethylene bag. I suspect the packaging cost twice as much as the gasket.

Now in this case it was not set aside for small business. The buyer did get six bids. The low bid was $5.69 apiece. The original equipment manufacturer was pleased to quote a modest $94.02 a piece. I guess he was pleased. The savings that the buyer accomplished on this one buy was $21,000. That is a 6-month salary for me.

Oh, incidentally, all these parts became competitive because of the Small Business Administration's breakout, procurement center representatives' activities.

Everybody likes to talk about bolts, so I brought along a little bolt, an I-bolt. This part was not set aside for small business. The buyer got 10 bids. The low bid was $13.49 a piece which is a lot of money for a bolt. The prime was extremely pleased to quote $328 a piece. I think he wasn't too happy when he didn't get the contract. For a quantity of 44, that again saved the Air Force $13,000.

I would like to talk about this part. If I may regress for a moment, last Christmas my wife and five children surprised me by rolling in a little Honda motorcycle. God, that thing is fun to ride. It gets 30 miles an hour and 80 miles to the gallon. She paid $500. Do you want to guess what this cost? It is worth three times what my motorcycle cost. The OEM was pleased to quote $1,550 a piece for that part. The buyer succeeded in getting 22 bids for it and bought them for $50 apiece. That one buy saved another $36,000. God, I could have had three motorcycles.

This little piece of sheet metal was set aside for small business. The buyer got 21 bids, made an award for $7.40, but $7 is a lot better than paying $174.99 apiece to the prime for it. A very expensive part, a piece of sheet metal bent into an angle with a hole in the end. It is quite interesting to note that the actual manufacturer's inspection stamp was on it. The OEM never even saw the part.

The buyer got five bids, paid $3.96 apiece for these things, which was better than $60.60 that the prime wanted. The last part is a piece of stainless steel that is bent into an angle, got three holes in this one which probably explains why it is more expensive. The buyer got 15 bids on it and $5.87 apiece. The poor prime got cheated because they only hoped to get $153 a piece for it. That buy saved $27,000 which would probably buy about five Chevettes.

The last picture in your group, gentlemen, is a collage of all of the parts. Taken one at a time, the collection of the seven parts laying here, the Government paid $96 for. The one prime was pleased to quote $2,300 for the same collection. Collectively, considering the various quantities the seven buys made on these seven parts saved the Government $183,000. I submit that the breakout PCR's are at least saving our salaries.

Mr. Britt, a while ago you asked if they were returning 10 times what they were getting paid. Not even close. We are running about 400 times. Therefore I personally heartily endorse Barbara Boxer's bill to add breakout PCR's to the major procurement centers so we can do more of this and less of paying $100 for a 4-cent diode.

I would be happy to answer any of your questions. Oh, I'm sorry. There is one other thing I would like to mention. Last time I was here, Mr. Britt, I mentioned Buddy Burris, the football player, that played for Green Bay Packers. One of these parts was Buddy's part. If you think Green Bay put it on Tampa Bay last Sunday, Buddy put in on the prime. If low score wins, it was 175 to 7. Buddy is still playing.

If you have any questions, gentlemen, I would be happy to answer them.

Mr. Bedell. Mr. Britt?

Mr. Britt. Proprietary rights are something we focused on a lot today. My understanding is that the burden of proof in a claim to proprietary rights is on the contractor, not on the Government. We have heard a lot about Colonel Dillon at Tinker who was pretty aggressive in that. Can you just tell us a little bit about Colonel Dillon's story and how it impacted on spare parts prices?

Mr. Miller. Yes, sir. Colonel Dillon invented the concept of procurement engineering back about 1961. He hired nine of us. Colonel Dillon believed in competition. He did not believe in sole source. There was a company that came to town once complaining bitterly because the procurement engineers had traced a proprietary drawing on to Air Force paper and then proceeded to use it for competition. How do you like that?

The prime came to town threatening lawsuits, 6 months in the electric chair and all of the good things for the engineer. Colonel Dillon listened to this for about 30 minutes and finally got up and says, "I have heard enough of this crap, Johnny. Let's go back to work. Air Research, the courthouse has 29 doors. Pick one, we will meet you there." That was the end of it.

The primes can place a proprietary legend on a drawing and allege that it is proprietary. Rarely if ever does anyone in the Government ever challenge it. The Boeing Co. put proprietary legends on B-52 drawings. Boeing didn't put any money into the B–52; that was all federally paid for. It has no commercial usage. So Tinker Air Force Base told Boeing they could take their proprietary legends and disregard them. We compete the B-52 parts that Boeing designed.

Well, let's shift to LTV that made the A-7, for example. The Government insisted and did, indeed, take title to all LTV drawings on the A–7 series of aircraft, and LTV didn't contest this. They didn't put legends on any of their drawings. However, LTV subcontracted an awful lot of the subsystems, accessories, the pumps, the generators, to other companies who could put proprietary legends on their drawings.

Now, if a company such as Air Research develops a hydraulic pump for a commercial airplane with their own money and markets that pump and then later puts that identical pump on the military aircraft, then I would agree they do have a proprietary on that data. But if they develop that pump for an A-7 aircraft and it has no commercial use whatsoever, whether there was money paid for R&D on a check or whether that R&D expense was recouped by escalating the price of the parts, either way it went, Mr. Chairman, the Government paid for the design of that pump. Therefore the data should be in the public domain. My tax money paid for it. I should have the right to bid on those parts if I want because it is my data, not Air Research's. I think that is something the committee should address if they get around to legislation on proprietary is who really paid for the design of those parts. Certainly if it was done at private expense, then the man has a right to claim proprietary, but not beyond what a patent would cover.

Mr. BRITT. We have talked a lot about spare parts today. How do you project that? I know you have worked mostly in that area, but if we went into the major systems apart from the spare parts, would we see the same kind of overcharges and inflation in the big systems that we are seeing in the spare parts area?

Mr. MILLER. It is called all the market will bear.

Mr. BRITT. Thank you, Mr. Chairman.

Mr. MILLER. Oh, Mr. Chairman, in each of these cases the cost reduction was in excess of 95-percent cost reduction.

Mr. BEDELL. Mr. Ireland?

Mr. IRELAND. Thank you, Mr. Chairman.

Mr. Miller, the example of parts, is there any safety involved in the quality of that?

Mr. MILLER. No, sir. In other words, one part is kind of hard to bend. If you bend it out of shape and then start to install it, the sheet metal mechanic will simply take a rawhide mallet and beat it into place so it does fit.

Mr. IRELAND. B-1's and B-52's are not going to fall from the sky because of some quality control program at the small businesses.

Mr. MILLER. Not a single part.

Mr. IRELAND. My other question is a followup of our little discussion about threats and such. Have you heard of threats to some of these small businesses from original parts manufacturers?

Mr. MILLER. That covers almost a range, sir, of some companies that just plain don't care. Generous Electric, if I didn't mispronounce that, is very generous with having their vendors go direct. There is another company that I prefer not to name that threatens them with lawsuits to such an extent that they will drive them into bankruptcy defending themselves with legal fees. There are all kinds of ranges depending on which——

Mr. IRELAND. Maybe the public ought to know about it. Do you know who some of those people are?

Mr. MILLER. I would be happy to tell you the names after the hearing.

Mr. BEDELL. I'm sorry, I didn't hear the question asked.

Mr. **Ireland**. The gentleman says that in his view that there are small businesses that are threatened by the original equipment manufacturers. He cited one that was very generous in helping him along this line, but others will threaten the small businessman with everything from, court to bankruptcy if they dare to step in and want to get into the ball game.

Mr. **Miller**. That can be done very subtly.

Mr. **Bedell**. The simple thing would be for us to put in our legislation that that is a criminal offense. If we do that, I have the feeling that maybe they might be a little careful about what they were to do.

Mr. **Miller**. Mr. Chairman, a thing that concerns a lot of the small businesses is that if they go direct and irritate the large company, then in the days, weeks, months, years to come they just simply won't get anymore business.

Mr. **Bedell**. I understand, but if we wish to do so, the Congress could make that a criminal offense.

Mr. **Miller**. How can you obligate, say, Pratt and Whitney to continue to do business with a company that they don't care to do business with?

Mr. **Bedell**. No, no. We can easily, if we wish to, legislate that threatening reprisals against a supplier who bids on Government contracts is a criminal offense. We could do that.

Mr. **Miller**. You could do that if there was any overt act, but just a silence could put a man out of business if he has all of his eggs in one basket.

Mr. **Bedell**. Well, I don't want to get into the details, but if I were running Pratt and Whitney I would be pretty darn careful if I knew that there was statute on the books that said for me to take action against somebody because of the fact that they bid directly with the Government, I would think pretty long and hard before I took such chances. They might want to do it, but it would seem to me to be quite a deterrent.

Excuse me, I'm sorry.

Mr. **Ireland**. That concludes my questions. Thank you.

Mr. **Bedell**. Mr. Ray?

Mr. **Ray**. Thank you, Mr. Chairman.

Mr. Miller, thank you for coming today. Has there been, in any instance, where the prime has explained or attempted to explain the high cost of these parts in comparison to the examples that you have represented?

Mr. **Miller**. Not with this extent, sir. A lot of times they will come in and allege that they have extensive inspection techniques, but that is awfully hard to back up when you go to the warehouse and look at a box and find it was shipped from Arizona when the prime is in Florida. Because the prime has it drop shipped, it comes from the contractor's plant straight to the Air Force. The prime never even saw it, but that is hard to justify a 900-percent markup.

Mr. **Ray**. Does the prime have any kind of a sophisticated formula for arriving at these parts, because I know looking at the testimony of the committee going back a number of years when Mr. Hebert was chairman on the Defense Committee, he had been appalled at the price of a lamp and the spare part the Army was buying the same lamp with a light bulb for 5 cents and the Navy was paying $15 for the light bulb.

The explanation was that it was a way they calculated all the parts of the lamp in some sort of a sophisticated, unheard type situation. Now, I wondered if there was some technique that primes use that we don't quite understand.

Mr. **Miller**. There is one technique that the Boeing Airplane Co., uses periodically. If this should have perhaps been a Boeing Airplane Co., part, Boeing charges all of the man-hours that a particular small shop expends in a day's time on the products that come out of that shop. Hence, if you have got a five-man shop that makes one part on a given particular day, in the cost of that, that whole shop is charged off against that one part. Hence, this could be a $2,000 part and Boeing could document every penny of it. That is the object of going competitive. You can really get an honest price on the parts.

Mr. **Ray**. I am told that Boeing has not manufactured any parts in about 30 years. All they have done is assemble, purchase, and assemble.

Mr. **Miller**. That is one of my favorite phrases, sir. The Boeing Airplane Co., hasn't made an airplane since the late thirties. Boeing, however, does design, assemble, sell and service what I think most all of you would agree was the finest set of airplanes in the commercial sky today. But, no, they don't make airplanes simply because nobody can afford to.

If Boeing tried to build a 747, so to speak, in-house they would probably have to hire 50 million people. For example, they fly Pratt and Whitney engines. They would have to buy out Pratt and Whitney and move that plant to Seattle so they could make the engines. They would have to create enormous machine shops if they were going to replace the effort that is done by subcontractors all over the United States. What you say is true; Boeing doesn't make airplanes, neither does Pratt and Whitney make engines.

Mr. **Ray**. Thank you, sir.

Mr. **Bedell**. Mr. Olin, did you have any questions?

Mr. **Olin**. No questions.

Mr. **Bedell**. We do have to go vote. The chairman has a question or two I would like to ask you when I come back, if that is all right. We should go vote right now and then when we return, we will also have the final panel.

The committee will be recessed for about 10 minutes.

[A brief recess was taken.]

Mr. **Bedell**. So you don't have anybody now?

Mr. **Miller**. We don't have anybody now. As of today there are three people in my office.

Mr. **Bedell**. What did you figure your savings have been in the past year?

Mr. **Miller**. It wasn't too good last quarter. As I'd mentioned to someone else, Mr. Chairman, for me to sit here and tell you that last quarter I personally saved $3,905,000 for the Air Force would be about like General Patton saying he personally slaughtered the German army. General Patton probably never shot a German——

Mr. **Bedell**. General Patton might have said that anyway.

Mr. Miller. He would convince you that he did, and believe it. But, no, I don't break parts out. All I do is identify the part that could be broken out, identify the method by which it can be broken out, and then take my engineering ring down to the technical engineers, and browbeat them into admitting they made a mistake, and get them to change their mind.

Mr. Bedell. Yes, but I assume that almost none of this $3,902,000 savings would have taken place if you had not been there, is that not correct?

Mr. Miller. That is correct.

Mr. Bedell. That consists of three people in your department, roughly?

Mr. Miller. Yes.

Mr. Bedell. How many of those are paid by the Small Business Administration?

Mr. Miller. Mr. Turk and myself.

Mr. Bedell. Two. OK.

What sort of cooperation do you generally get from the Army as you do this sort of thing?

Mr. Miller. This is the Air Force I work at, sir.

Mr. Bedell. Air Force.

Mr. Miller. My vocabulary isn't sufficient to describe it; it is fantastic.

Mr. Bedell. It's good?

Mr. Miller. Excellent.

Mr. Bedell. OK.

Mr. Miller. But then again I spent 21 years working with those people, so I know most all of them on a first name basis.

Mr. Bedell. What is the situation across the country in terms of people in positions similar to yours? Do we have staff similar?

Mr. Miller. Not nearly as good. I have——

Mr. Bedell. You mean the people aren't as good, or there aren't as many, or they don't have the same cooperation?

Mr. Miller. Cooperation isn't nearly as good. My counterparts, the three of us, there are only four breakout procurement center representatives in the United States.

Mr. Bedell. Wait a minute. Say that again.

Mr. Miller. OK. The Small Business Administration has a procurement center representative at the majority of the major procurement centers. They're called traditional procurement center representatives, and they have a full set of duties of their own.

The Small Business Administration almost 4 years ago started a pioneer program called the breakout procurement center representative, of which I was one of the original two.

Shortly thereafter, a third was added, and about 1 year ago the fourth was added.

There was a man, Jaime Garcia, at San Antonio Air Logistics Center, and myself, at Tinker, at the Oklahoma City Air Logistics Center; we were the two originals.

Very shortly thereafter, about 1 month or 2, T. C. Hollingsworth was hired and stationed at Warner-Robins Air Logistics Center, and then subsequently, Ken Williams was hired at the Ogden Air Logistics Center.

So there are only four of us. We have almost no instructions, other than get in there and break parts out for competition by whatever means we can come up with. The administration was wise enough not to tell us how to do it, because even though on paper all five of the air logistic centers are identical, in the real world they're all five just as different as night and day.

So what I can succeed in doing at Tinker Air Force Base, wouldn't work at all at San Antonio, and maybe the guys at Ogden, or Robins, might get it to work marginally.

But, you know, then there are things that is true from the other end of it. For example, T. C. Hollingsworth at Warner-Robins is being very successful at getting Warner-Robins to compete parts with procurement method codes other than G, by utilizing bid sets.

Mr. **Bedell**. Utilizing what?

Mr. **Miller**. Utilizing bid sets, where the drawings, and the specifications, are all attached.

One of the procurement method codes, for example, is a K, which means class 1A forgings and castings are required. At four of the air logistics centers that is a sole source part to the prime, but not at Warner-Robins. They attach a bid set, and they compete it, but they advise the buyer, "Hey buyer, be careful, only go to forging and casting houses that produce class 1A forgings and castings." I couldn't sell that at Tinker with a double-barrel shotgun. But T. C. is getting away with it at Warner-Robins.

Mr. **Bedell**. Why can't you sell it at Tinker?

Mr. **Miller**. I've just got a different set of engineers to work with.

Mr. **Bedell**. I thought you said they were so cooperative?

Mr. **Miller**. They are, but not always.

Mr. **Bedell**. OK.

Mr. **Miller**. Across the board I get probably twice the cooperation of the other people.

We had a national breakout PCR conference at Oklahoma City a few weeks ago that—hopefully the first annual—if there's anybody from SBA here, that was a hint. The four of us sat around 2 days around a table and talked about the different scenarios that we ran at our own centers to exchange ideas. Collectively, the four of us have about 18 different things we can do, any one of which is a full-time job.

So T. C. is successful in getting them to compete on noncompetitively coded parts. And that's great for T. C., and I'm happy for him. Let him go do that. I run what I call a pineapple program at Tinker, and that is horrendously successful, and very lucrative, and it's a full-time job.

Now, if I just had 17 more breakout PCR's at Tinker, we would be very happy to work all 18 of the programs.

Mr. **Bedell**. That's really the logical question. Apparently the procurement center representatives do not do the same work that you're doing.

Mr. **Miller**. That is 100-percent correct.

Mr. **Bedell**. Generally.

Do they try to help see that small business has an opportunity to bid, I assume?

Mr. **Miller**. Yes.

Mr. **Bedell**. But you——

Mr. **Miller**. Mr. Turk, for example—or consider a typical purchase request that comes from the director of material management into procurement. The buyer is the first to have the opportunity to set that aside for small business. If the buyer does not, then the buyer must forward the purchase request down to the small and disadvantaged business utilization specialist, and he has the option of setting it aside for small business.

If he does not, then it must go over to the traditional procurement center representative for him to review, and give him the opportunity to set it aside for small business, if it's something that could be set aside.

Mr. **Bedell**. And my first question is, do you believe that there are adequate procurement center representative personnel generally across the country?

Mr. **Miller**. No.

Mr. **Bedell**. No. How much would you increase the personnel percentagewise? Was it 20 percent, or 100 percent, or 200? What would you think you need to do it properly, and to save money?

Mr. **Miller**. Maybe 500 percent.

Mr. **Bedell**. Five times.

Mr. **Miller**. There are only four of us, sir.

Mr. **Bedell**. No, no, I'm talking about the procurement center representatives, which I understand are different from the breakout people.

Mr. **Miller**. I would not propose that that be increased at all.

Mr. **Bedell**. OK, that's my question first.

Mr. **Miller**. I'm sorry. I misunderstood your question.

Mr. **Bedell**. There is a differentiation, as I understand it, between the procurement center representatives, and the breakout procurement center representatives.

Mr. **Miller**. Totally.

Mr. **Bedell**. OK. So you would—do you think that the procurement center representatives are adequate representation on that area as far as——

Mr. **Miller**. That's a personal opinion.

Mr. **Bedell**. I understand. But you believe that instead of 4, you need 20 in the breakout?

Mr. **Miller**. Breakout, yes. But a breakout should be co-located with a traditional. It has been suggested that if you put in a breakout, then you don't need the traditional. That doesn't make a lick of sense.

Mr. **Bedell**. How has the Defense Logistics Agency changed? Has it made much difference as they've transferred things to DLA?

Mr. **Miller**. You're speaking of the 93,000 parts that went from the——

Mr. **Bedell**. Yes.

Mr. **Miller**. Military to the DLA?

Mr. **Bedell**. Right.

Mr. **Miller**. It made it easier on the military initially.

Mr. **Bedell**. In terms of cost of procuring the parts, and in terms of sole source selection, this sort of thing——

Mr. **Miller**. My personal opinion, sir, that the DLA is going sole source where they could go competitive, which is no skin off the

DLA's nose, because all they do is buy the parts and put them in the warehouse. Then when some Air Force needs the parts, the Air Force has to buy those back out of the warehouse at a horrendously inflated price.

Mr. **Bedell**. Would it make sense to have breakout procurement center representatives at the DLA?

Mr. **Miller**. Yes, sir, but he'd have to be some kind of an animal, because the responsibility and authority for changing procurement method codes is vested with the military. Hence, the DLA cannot legally go to a more competitive code without going back to the military. It would really be a chore.

Mr. **Britt**. Would the gentleman yield?

Mr. **Bedell**. I want to yield to the gentleman——

Mr. **Miller**. Yes, it could be done.

Mr. **Bedell**. But I should tell you, if you get any reprimands, or problems because of your testimony here—I don't expect it, but if you do, you certainly should—we urge you to contact the committee.

Mr. **Miller**. I don't anticipate that.

Mr. **Bedell**. I don't either, but we ought to make that clear.

I'd be glad to yield to the gentleman.

Mr. **Britt**. In the transfers that were made, with the DISC, were most of those competitive codes, do you recall the 200,000 items?

Mr. **Miller**. No, sir. But then after the last time I came up and testified on that subject I had told myself, "Why don't you get out of this? It's really not your business anymore." Because the parts were gone from Tinker Air Force Base, as I told Mr. Bedell. I've got more that I can say, grace over this.

Mr. **Britt**. But the consequence is—that you would have suppliers around the air force base that basically had dried up, ones that have heard a lot of me.

But if those codes were competitive, that were transferred to DISC, then a breakout person, because it was competitive code, could function at the DISC level.

Mr. **Miller**. You bet.

Mr. **Britt**. I think there's some activity going on at the DISC level but there was a tremendous overload, and I think a lot of bad things happened. There is some effort to correct that, it is not corrected yet.

Mr. **Miller**. One of the huge advantages that a breakout procurement center representative has is that he is not an employee of the Department of Defense. So, at Tinker Air Force Base, nobody at that base, including a two star general, can tell me to shut up and sit down.

Mr. **Britt**. So you would recommend that if DLA moves toward, and I think they have, it would be helpful to have SBA involved at the DLA level, perhaps as a breakout person.

Mr. **Miller**. Yes, sir. If the Barbara Boxer bill passes, I think there's five DLA procurement centers, that one of the new breakout procurement center representatives be assigned to each of the DLA buying functions.

Mr. **Britt**. Is it critical that that person have some engineering background of some sort, as opposed to procurement background?

Mr. **Miller**. Again, that's a personal opinion, but I believe it's absolutely mandatory, because engineers generally are considered to be overpaid, oversexed, and just conceited as hell. For someone that is not an engineer to walk up to an engineer, and start arguing with him, haven't got a chance, but another engineer can get away with that.

Mr. **Bedell**. We do have to go vote, but in my reading the Boxer bill, I'm not at all sure that it specifies an increase, but I'm not all sure the description is such that it would be for people from these breakout centers, unless I don't read it correctly.

Somebody's nodding their head. Does it? Beg pardon?

Voice. Yes.

Mr. **Bedell**. You're with their staff?

Voice. No, I'm the one who put that together.

Mr. **Bedell**. He says that what they need them for is for the breakout procurement center representatives, rather than the procurement. Is that in the bill?

Voice. Our bill is intended to establish breakout procurement center representatives in every major procurement center.

Mr. **Bedell**. Does it state that in the bill, so you'd understand that?

Voice. Yes.

Mr. **Bedell**. OK. Any other questions before we——

[No response.]

Mr. **Bedell**. If not——

Mr. **Ireland**. What's the size of that bodyguard?

Mr. **Bedell**. You're an engineer, aren't you? He already described what engineers are like. They don't need it any better.

Mr. **Miller**. Aeronautical.

Mr. **Bedell**. Why don't we go vote, and we will come back. We will finally get to the last panel, which has been waiting all day to testify, as soon as we come back from this vote.

Thank you very much.

[A short recess was taken.]

Mr. **Bedell**. The subcommittee will come to order.

Our final panel for today consists of Stanley Weiss from Business Executives for National Security; Wallace Forman, Business Executives For Equitable Procurement; and Bruce Hahn, from the National Tooling and Machining Association.

I want to be sure to mention the fact that the association representing the severely handicapped have been concerned that the legislation might somehow eliminate a program that there has been for them. The committee should know it was not the subcommittee chairman's intention to do anything that would adversely affect their opportunity that they had in the past to bid for Government procurement work. It is my understanding in talking to staff, that they expect to try to see that that's properly taken care of in the legislation. They wanted to testify, and I encouraged them that we could probably take care of it without such need.

[See appendix D.]

Mr. **Bedell** [continuing]. I understand Mr. Weiss has to catch a plane.

Are you Mr. Weiss?

Mr. **Weiss**. Yes, I am.

Mr. BEDELL. You mean you planned your schedule so that you didn't figure you'd be here until 4:30 in the afternoon, with this committee meeting at 9:30 in the morning?

Mr. WEISS. I believe that I could make the plane 24 hours later.

Mr. BEDELL. I'm just kidding you. We'll be glad to hear your testimony.

What time do you have to leave?

Mr. WEISS. What time does the Orioles' game begin?

Mr. BEDELL. I thought it was going to be rained out.

We will hear from you first, and if you have to leave, just tell us, and we want to work with you.

TESTIMONY OF STANLEY A. WEISS, PRESIDENT, BUSINESS EXECUTIVES FOR NATIONAL SECURITY, INC.

Mr. WEISS. Mr. Chairman, subcommittee members, and staff, thank you for inviting Business Executives for National Security, or BENS, to testify on H.R. 2133.

I prepared a longer statement of BENS' analysis of this legislation, which I trust will be inserted in the record.

Mr. BEDELL. Without objection that will be done.

Mr. WEISS. But in the interest of getting on with the hearing, unless there is an objection, I'd like to summarize that statement.

I am Stanley A. Weiss, president of BENS. I'm also chairman of American Minerals, Inc., a minerals processing firm with plants in six States, and I'm an active venture capitalist.

With me is Dr. James Morrison, the vice president for public policy of BENS. BENS is a trade association of more than 700 business executives favoring a strong, but much more cost-effective defense. BENS has no direct economic interest in this legislation, except as individual taxpayers, and as citizens.

Inasmuch as our area of expertise is on defense and national security matters, I will confine my remarks to the impact of the proposed legislation on the Department of Defense.

BENS has no official position regarding the desirability, or impact, of H.R. 2133, on other Government agencies.

In general, we agree with the thrust of H.R. 2133, which appears to be to improve competition for Government contracts. We have heard all the unbelievable saga of the Pentagon's spare parts procurement, and overwhelmingly noncompetitive process, and we applaud the efforts of the subcommittee to reform that procurement process.

The Pentagon needs a big dose of capitalism. As Senator Grassley testified this morning, only 6 percent of its contracts are fully competitive. This subcommittee is on the right track in helping to correct that.

Indeed, we would urge the subcommittee to go farther by including in the legislation, at least on an experimental basis, some provision for greater outreach to potential contractors by such agencies as the Department of Defense. Tiny announcements in Commerce Business Daily simply do not reach a large enough audience of potentially qualified bidders.

We also approve of the stiff penalties for false representations in Government contracting, which section 5 of the bill proposes.

While BENS understands the usefulness of statutory set-asides for small business, in situations where such set-asides will reduce reliance on the sole source contracts, and introduce more competition, we are opposed to the use of set-asides which would reduce competition, and increase sole sourcing.

Thus, we would approve of subsection 4A of the bill requiring a small business set-aside when two or more small businesses can perform a contract so long as such provisions increase overall competition.

We applaud the procompetitive thrust of section 4. We do have serious reservations about those parts of section 4 of the bill dealing with labor surplus area set-asides.

While we sympathize with the plight of the unemployed in labor surplus areas, can you imagine being unemployed and be considered a surplus laborer? I know in the United Kingdom someone who is unemployed is called redundant. Here we use this euphemism "labor surplus".

We would note that the Pentagon contracts are notoriously unstable as a source of employment. For one thing, such contracts are dependent upon the political winds of the 1-year appropriation cycles. For another, military acquisition cycles are themselves unstable. Pentagon budget planners must change their priorities, sometimes on short notice, when inflation, or expensive design alterations in some acquisition programs cause costs to edge above budget ceilings. Contracts in completely unrelated programs can be stretched out, or even canceled, as a result.

To have a strong defense, we must permit some jobs to be at risk in this way, but we should not treat defense contracting jobs as though they held the solution to unemployment. Many other approaches to unemployment, involving both the private sector and the public sector, offer much more promising roads to stable permanent employment. It is better to keep military priorities and economic development priorities conceptually separate.

On balance, we think H.R. 2133 is a good bill, and we are confident that the problems in it can be worked out. It addresses an important defense need imaginatively. BENS would be delighted to work further with the subcommittee on the legislation.

[Mr. Weiss' prepared statement follows:]

PREPARED STATEMENT OF STANLEY A. WEISS, PRESIDENT, BUSINESS EXECUTIVES FOR NATIONAL SECURITY, INC.

Mr. Chairman, Subcommittee members and staff, thank you for inviting Business Executives for National Security, Inc., to testify on H.R. 2133, an amendment to the Small Business Act, which is under consideration by this subcommittee. I am Stanley A. Weiss, President of BENS. I am also the Chairman of American Minerals, Inc., a minerals processing firm with plants in six states; and I am an active venture capitalist. With me is James Morrison, the Vice-President for Public Policy of BENS. BENS is a trade association of more than 700 business executives favoring a strong, but much more cost-effective, defense. Inasmuch as our area of expertise is on defense and national security matters, I will confine my remarks to the impact of the proposed legislation on the Department of Defense. BENS has no official position regarding the desirability or impact of H.R. 2133 on other government agencies.

In general, we agree with the thrust of H.R. 2133, which appears to be to improve competition for government contracts. We have all heard the unbelievable saga of the Pentagon's spare parts procurement, an overwhelmingly non-competitive process, and we applaud the efforts of the subcommittee to reform that procurement process. The Pentagon needs a big dose of capitalism—only 6% of its contracts are fully competitive—and this subcommittee is on the right track in helping to provide it.

In this respect we strongly endorse Section 1 of H.R. 2133, which would enable more businesses to secure an SBA "certificate of competency" to perform contracts—and therefore to compete for those contracts. We support the requirement for fuller public reporting of agency subcontracting plans, as contained in Section 3 of the bill. We are glad to see the provision in Section 4 of the bill which calls on agencies to cut the paperwork associated with government contracting and directs those agencies to pay their contractors speedily. If well-enforced, such measures would increase the attractiveness of government contacting to the business community, particularly small businesses, and would thereby improve competition. Indeed, we would urge the subcommittee to go farther in this direction by including in the legislation, at least on an experimental basis, some provision for greater outreach to potential contractors by such agencies as the Department of Defense. Tiny announcements in Commerce Business Daily simply do not reach a large enough audience of potentially qualified bidders.

We also approve of the stiff penalties for false representations in government contacting which Section 5 of the bill proposes.

We do, however, have some questions and reservations regarding the bill.

In the category of questions, we would include Section 2, which raises from $10,000 to $25,000 the lower limit of contracts that an agency must make an aggressive effort to promote to small businesses. Is this provision necessary for administrative efficiency? Could it lead to the subdividing of $100,000 contracts into four $25,000 units to remain below the threshold? The members of the committee might wish to address such concerns in any report which is issued on this bill.

While BENS understands the usefulness of statutory "set-asides" for small business in situations where such "set-asides" will reduce reliance on sole sources contracts and introduce more competition, we are opposed to the use of "set-asides" which would reduce competition and increase sole-sourcing. Thus, we would approve of subsection 4(a) of the bill, requiring a small business set-aside when two or more small businesses can perform a contract, so long as such provisions increase overall competition. In a hypothetical—and probably very rare—situation in which there was active competition by three or four large businesses for a contract, we would oppose narrowing the field to two small business, simply because those businesses were small and irrespective of whether or not they could perform the contract at a lower cost. This also may be more a matter of report language than of statutory language. With respect to that part of section 4 of the bill which introduces a statutory bias in favor of competition, we would suggest that the terms "compromise the national security" and "legitimate proprietary interest", as they appear on page 5 of the bill, be very carefully defined in any accompanying report. A loose construction of such terms by skilled bureaucratic opponents of the legislation could seriously undermine its effectiveness. We applaud the pro-competitive thrust of Section 4, however.

We do have serious reservations about those parts of Section 4 of the bill dealing with labor surplus area set-asides. At present the Defense Logistics Agency within the Department of Defense is experimenting with a pilot program which confers a bidding advantage on labor surplus areas. This program, which has been extended on a year-to-year basis since 1980, in effect bypasses the Maybank Amendment, which was designed to keep military considerations uppermost in the awarding of DoD contracts. BENS has strongly and consistently opposed efforts to use the military budget for economic development objectives, or to put any priority higher in this country's military spending than the implementation of a coherent strategy. We believe the Maybank Amendment provides a sensible and reasonable approach to one aspect of this concern. Absent a better approach, we would strongly oppose the Maybank Amendment's repeal. Section 4 of H.R. 2133 would have the effect of such a repeal by converting the DLA pilot program into a permanent DoD-wide program. We therefore oppose that provision of H.R. 2133. While we sympathize with the plight of the unemployed in labor-surplus areas, we would note that Pentagon contracts are notoriously unstable as a source of employment. For one thing, such contracts are dependent upon the political winds of one-year appropriations cycles. For another, military acquisition cycles are themselves unstable. Pentagon budget planners must change their priorities, sometimes on short notice, when inflation or expensive design alterations in some acquisition programs cause costs to edge above budget ceilings. Contracts in completely unrelated programs can be stretched out or even cancelled as a result.

To have a strong defense, we must permit some jobs to be at risk in this way. But we should not treat defense contracting jobs as though they held the solution to unemployment. Many other approaches to unemployment, involving both the private sector and the public sector, offer much more promising roads to stable, permanent employment. It is better to keep military priorities and economic development priorities conceptually separate.

On balance, we think H.R. 2133 is a good bill and we are confident that the problems in it can be worked out. It addresses an important defense need imaginatively. BENS would be delighted to work further with the subcommittee on the legislation.

Mr. Bedell. What is your time situation, Mr. Weiss?

The question is whether we should hear the other two witnesses before we ask questions, or do you need to get away?

Mr. Weiss. Well, I would, if possible, prefer to answer whatever questions there may be, but Dr. Morrison would be here to answer questions in the event that I sort of scoot off.

Mr. Bedell. OK, fine. Is it the wish of the committee that we respect his needs and question him at this time? Is that agreeable? Mr. Britt?

Mr. Britt. Do you think there's a conflict between the competitive awarding of contracts, and the defense need. We're hearing today, in your testimony, that there may be some conflict. But what we're hearing today, I think, is just the opposite. The costs are better and we have less lead time.

It seems to me from a national defense point of view, the more manufacturers we have that are capable of producing for the defense establishment, the better off we are in times of crisis. And also, by having a number of smaller manufacturers involved in that process, they can tool up; or if there's a constriction, because of the salt limitation, or something, in that industry, they're not going to go out of business. We're going to keep potential suppliers. They'll know the system, and they'll know the process of Government procurement.

It seems to me that anytime we can broaden that base, and I know you're not saying that we shouldn't, but it seems to me like there's some implication in your testimony that the competitiveness is going to weaken our defense establishment. In my mind, the broader base will strengthen it.

Mr. Weiss. Not at all. I think there is a No. 1 priority. For BENS it's bringing capitalism to the Pentagon. The more competition, the better.

Our feeling is that first of all you need to have a strategy. We haven't had an overall real strategy review in our country for at least 20 years.

After one decides what we're going to do, then one decides on the weapons systems. Third point, is that once one makes that decision, the question is how you procure these weapons. We find very little capitalism in the procurement system.

If these figures are correct—and we have the same access to the figures from GAO, and others—there's a very small percentage of contracting that is done competitively. More competition, is needed; we're entirely in favor of that.

That's one of the reasons that we made the statement that we should not use our military defense as a jobs program, even in areas that are affected adversely. Economically, we feel that there should be other private, or public, ways of taking care of that—but not the military.

Mr. BRITT. Well, apart from the unemployment area, what about the set-aside programs? In general, do you have reservations about set-aside?

Mr. WEISS. Jim, do you want to answer that?

Mr. MORRISON. I think it's easiest to answer, Congressman, if we simply say that we are for any set-aside which improves competition at the Pentagon.

In our lengthier testimony, we talked about a hypothetical, and probably very rare situation, in which there might be a great deal of competition, and lower cost possibilities, by having larger enterprises bid on something.

If forcing such contracts to smaller enterprises means that there will be less competition, and higher costs, our feeling is that that's not what our members, and we think a significant part of the business community, would favor.

Mr. BRITT. Thank you, Mr. Chairman.

Mr. BEDELL. Mr. Addabbo?

Mr. ADDABBO. I have no questions.

Mr. BEDELL. Mr. Olin?

Mr. OLIN. I have no questions.

Mr. BEDELL. Mr. Ireland?

Mr. IRELAND. No questions, Mr. Chairman.

Mr. BEDELL. Mr. Sisisky is so quiet I didn't see him.

Mr. Sisisky?

Mr. SISISKY. Your last remark, what was that again?

Mr. MORRISON. I'm sorry. That may have been sort of complicated. We were saying that as long as set-asides improve the competitive climate, we're all for them. And we think by and large, small business set-asides do. They're necessary to improve competition. But it is possible to imagine hypothetical situations in which a set-aside might decrease competition. It might raise costs. And in those situations we think that certainly our membership, and a significant part of the business community, would prefer to keep the costs down, and the competition up.

Mr. SISISKY. You said that would be true in some instances. Wouldn't that be true the other way if there were not set-asides?

Mr. MORRISON. I absolutely agree, Congressman. I think that, by and large, small business set-asides have been very, very valuable in improving competition. I am less certain that labor surplus area set-asides have been useful. I see the small business set-asides as tending to lower contract costs and improve competition; the labor surplus set-asides I see as tending to lessen competition and increase contract costs.

Mr. SISISKY. You talked about communication. The one thing that I hear all the time from small business people is they didn't know it existed.

You said that they published, but how would you disseminate information about a contract, or a bid process?

Mr. MORRISON. Well, I certainly don't have all the answers myself. I do know that the Office of Advocacy at SBA, for example, maintains lists of trade associations by SIC category, by the standard industrial classification of the businesses, within those trade associations.

Now, it may be that one approach to this would be to have the Defense Department work more closely with SBA, and have SBA then work with its list of trade associations in getting the word out through trade associations to those businesses which are potential bidders. That would be just one thing off the top of my head.

Mr. SISISKY. That's a very good idea, but you said they only distribute in one periodical.

Mr. MORRISON. I certainly don't know every aspect of the procurement process. We are kind of testifying on this in a broad brush way, but it's our understanding that most Government contracts are advertised in the Commerce Business Daily, and really not very well publicized in any other way.

Mr. SISISKY. Your testimony is very strange. From the administration, when they talk about major weapons systems, and we hear the debate go on that we do talk about jobs, that this is, indeed, a jobs bill. I remember hearing that on the MX missile, and other major weapons systems, but your organization is against any reference to jobs basically. Is that correct?

Mr. MORRISON. We think that it gets into a very dangerous and loaded situation when we begin to consider defense as an economic development program, rather than as military protection for the country. I am not at all sure the military budget would work as a jobs program, even if we wished it to be one. Certainly, the results of the labor surplus set-asides thus for have not been encouraging.

Mr. SISISKY. But, of course, in some areas, you know that defense spending is a major economic development, too. I can cite many places that it is.

Mr. MORRISON. I think those economic consequences have to be understood, and they have to be weighed, and balanced. But our position is that there has been too much emphasis on the economic development aspect, and not enough on the strategic military aspect.

Mr. SISISKY. Thank you.

Mr. BEDELL. Mr. Ireland?

Mr. IRELAND. Mr. Chairman, Dr. Morrison here is the same gentleman that was so helpful to us in our consideration of the Regulatory Flexibility Act over the years. It's a pleasure to see him back here again.

Mr. BEDELL. The chairman has no questions. We appreciate your being here, and hope you enjoy the ballgame.

Mr. WEISS. Thank you.

Mr. BEDELL. We'll next hear from Mr. Wallace Forman, Business Executives for Equitable Procurement.

Mr. FORMAN. Mr. Chairman, I've distributed my formal statement. In the interest of saving time, may I simply summarize and highlight what I consider to be the most important points?

Mr. BEDELL. You sure can. We appreciate it.

Mr. FORMAN. Thank you.

TESTIMONY OF WALLACE FORMAN, CHAIRMAN, GIBRALTER INDUSTRIES, INC., ON BEHALF OF BUSINESS EXECUTIVES FOR EQUITABLE PROCUREMENT

Mr. **Forman**. Just to introduce myself, my name is Wallace Forman of Gibralter Industries. We manufacture some very specialized textile products, and just to give you an idea what's involved, I just brought a few of them along with me.

That happens to be a chemical protective suit for protection against chemical and biological threats. It's the standard specification suit used by the military.

This happens to be an antifragmentation vest, which is the vest which would protect you against shell fragments, bullets, et cetera.

This is the new combat helmet for the military, which is just going into use. I pulled this one out of the laboratory. It was just in the lab a couple days ago, and these little abrasions you see on it are 357 magnums. If anybody wants to look at these later, they certainly can.

At any rate, this is the kind of product my company manufactures, and when I sit here I'm speaking for companies similar to mine in my industry, which have certain problems with the set-aside program as it exists in our industry. Because of the specialized nature of the products we produce, you can imagine we're not companies that simultaneously are producing ladies' blouses and antifragmentation vests. It's an entirely different kind of factory and facility that one needs.

The people in my industry are highly specialized, and tend to produce this kind of stuff for the military. There has never been a company in our industry which has succeeded in both producing to satisfy the military, and to satisfy civilian markets. So I just want you to understand that's part of the situation you're looking at.

And there were many industries, and many companies, such as mine, that are in that particular configuration.

In my industry, contrary to some of the things we've heard described today, 95 percent of all Government purchasing is set aside for small business.

When you look at that chart and see that only a small percentage of the total Government purchasing is set aside for small business, I want you to know that a very large percentage of that small part is from my industry. We are 95 percent small business.

The agency with which we deal happens to be the Defense Personnel Support Center in Philadelphia, which purchases this kind of thing for all of the military services. Of the things that DPSC purchases, 95 percent are set aside for small business in the end-item categories such as this.

Prices in our industry are all determined competitively. Everything is competitive bid. This year DPSC sent back $300 million to Treasury, to give you an example, or an idea of the fact that my industry is not one of the industries that is managing to charge too much. As a matter of fact, truthfully, we're charging too little nowadays. It's a highly competitive environment.

I want to describe to you the other side of the coin. I'm going to tell you what happens when the percentage of set-asides, rather than being too small, is too high. It's something you must know when you consider this particular situation, because it becomes counterproductive.

We've been in business about 30 years or so; it started as a family business of my father, myself, and my brother. When we entered the business, the percentage of set-asides was approximately 15 percent. It grew gradually. As you know, there is constant pressure upon procurement agencies to increase the percentage of small business set-asides, particularly the Department of Defense.

Well, it's a lot easier for the Department of Defense to increase the percentage of set-asides in an industry such as mine, than perhaps in the aircraft industry, or industries of that type. It's like the welfare system. If you try to get off the welfare system, you're kicked out of the welfare system the minute you get a job. You don't dare go get a job because you need the welfare, at least for a while, to make sure that you can feed your family.

So, as a result of that, you have generation after generation remaining on welfare. In a sense, it's that kind of cage that's been erected, only for one reason, because there has been no limitation whatsoever on the percentage of set-asides in a particular product in a given fiscal year.

The Small Business Act says that a fair proportion of Government purchasing shall be set aside for small business. I have no objection with that, whatsoever. When I entered this industry, that's the situation I faced.

But can 95 percent from my industry be considered a fair proportion. I'm sure Congress never envisaged that, and, is zero percent for other industries a fair proportion? I don't believe that Congress ever envisaged that.

But, by the way in which the law has been interpreted, a fair percentage ends up being the aggregate percentage, and no attempt is made to look at any particular product area which creates this distortion that I'm describing.

It's like saying that a man with his head in a hot oven, and his feet in a freezer, on an average is quite comfortable. You know, it's just not the right way to look at the situation, and it's something I'm certain Congress never envisaged.

I could give you a whole list of the distortions that occur in an industry such as mine. I'll answer any questions if you wish me to tell you the way it really works in reality.

I'll repeat, I am not sitting here saying I'm against the set-aside program. But there is something that you must do. If you're looking at a floor under set-asides, to help small businesses you must also look at a reasonable ceiling.

The rest of my statement, let's say, will be in the form of answering any questions you may have.

[Mr. Forman's prepared statement follows:]

PREPARED STATEMENT OF WALLACE FORMAN, CHAIRMAN, GIBRALTER INDUSTRIES, INC., ON BEHALF OF BUSINESS EXECUTIVES FOR EQUITABLE PROCUREMENT

My name is Wallace Forman. I am Chairman of the Board of Gibralter Industries, Inc. of Brooklyn, New York. Gibralter is a producer of textiles and textile products, primarily for the Department of Defense (DoD).

I appreciate the opportunity that the subcommittee is providing me today to speak of problems which beset my company, the industry of which it is a part, and other industries in which small business set-asides predominate.

Some 30 years ago, upon my graduation from college, I joined with my father in the management of Gibralter Industries. It was my great good fortune to be able to learn the business from my father and later to succeed him as its chief executive.

When the Small Business Administration (SBA) began administering the congressionally mandated procurement set-aside program, a small but helpful percentage of government procurements were reserved for bidding exclusively by small businesses. However, in the textile and textile products industry, the percentage of procurements set aside for small business became increasingly larger. With each increase in the number of procurements which were set-aside, the necessity for companies within the industry to maintain their employment levels below that defining small business became more critical. Normal patterns of corporate growth began to be altered and employable persons remained unemployed.

The SBA established a size standard for our industry of 500 employees, even though our industry is extremely labor intensive and the DoD procurements on which we bid are both large and have tight delivery schedules. As the percentage of procurements set aside became increasingly larger it was not economically feasible to grow beyond the small business size standard because of the insufficiency of procurements available to a business which was other than small. Neither our industry or our federal customers were, or are, able to benefit from economies of scale.

The set-aside program, which was conceived as a method for providing contractual opportunities for small businesses in order to assist them to grow and become more efficient contributors to the national economy, has now become an instrument which stunts normal business growth and denies opportunity for success to the companies in our industry and selected others.

Has the set-aside program provided growth opportunities in industries other than those impacted by large setaside percentages? It would appear not. As the Congress and SBA pushed for greater percentages of contracts to be awarded to small business by the federal procurement agencies, those agencies responded. The aggregate percentage of contracts awarded to small business rose, but in general, the product lines for which contracts were awarded remained the same. Small business has been permitted little penetration into the high tech, high growth potential product areas. Rather, the increase in the aggregate percentage of small business federal contract awards has been achieved by steadily increasing awards to small businesses in the textile, base services and other product lines which DoD deems "suitable" for small business.

I stated previously that the SBA size standard for our industry is such as to predicate against achieving truly efficient operations. The high percentage set-aside in our product lines, which now approximates 95 percent, denies us the opportunity to grow by bidding on procurements which are unreserved for small business. Therefore, companies in our industry have very limited options. They may artificially alter their growth and employment patterns and remain eligible for small business set-asides, they may withdraw from the industry in which they have great experience and enter a new industry with the concomitant hazards and loss of efficiency, or they can close their doors.

The incongruity of the dual effect of the SBA size standard and the high percentage of procurements set-aside for small business in our product lines is highlighted by the impact occasioned on another SBA program.

Several companies in our industry are "Section 8(a)" companies. SBA's 8(a) program, as you know, is a program which seeks to assist companies owned by socially and economically disadvantaged persons to establish a business, learn, grow, become viable and to enter into and succeed in the mainstream of commerce. In our industry however, they are permitted to grow to only a certain level, and not one which signifies mainstream success. The 8(a) companies in our industry are bound by the twin forces of size standard and high percentage set-asides in our product lines as are we all. They are thereby constrained in their growth patterns. However, the impact is greater on them since, by their nature of companies needing specialized assistance, they are generally less efficient than the more established companies. In other words, these companies require more employee/hours to produce a unit of product than do the more established companies. The 8(a) companies face a double penalty for growth. If they exceed the number of employees permitted under the size standard they not only lose their small business status, but also their 8(a) status and the special services provided thereunder. The size standard and high set-aside percentage of the SBA set-aside program therefore denies them the very opportunity to grow and prosper that the SBA's 8(a) program promises.

Through the years my company, as have others, has suffered through the ever changing small business set-aside program. I have raised the problems which I am speaking of today on many occasions with officials of both SBA and DoD, but to no avail. I was led to believe that my company was the only one which was questioning this practice, even though others in my industry had spoken to me of it.

Then in November of 1982 my company was featured in a Wall Street Journal article as an exemplar of an industry being adversely impacted by a law which had been designed to assist it. As a result of this article, I was contacted by a number of business persons, from my industry and from others, from all parts of the United States. I was told that their companies, contrary to what I had been led to believe, were experiencing the same adverse impact, and from the same source, as was mine. Still I hesitated to act, due to my apprehension that speaking out could be hazardous to my company.

Then, a short time ago, I had the opportunity to speak of my problem to Representative Andy Ireland of Florida. He understood the problem, was sympathetic and encouraged me to take action to address the problem.

I felt that a single voice had less chance of being heard than did many, so I contacted other members of my industry and organized Business Executives for Equitable Procurement. Businesses in other industries which are similarly affected are now contacting us for information about joining this coalition. It is our intent that this coalition should not be a single issue group, but one which will serve the interests of both the public and private sectors by pointing out inequitable government procurement practices wherever and whenever they occur.

With the support of the other members of the coalition and the encouragement of Mr. Ireland, I appear before you here today.

I feel sure that officials of good faith in both SBA and DoD feel that they are faithfully carrying out the will of the Congress in their administration of the small business set-aside program. If questioned, they would undoubtedly point with pride to the aggregate number of procurement contracts awarded to small business. However, as I hope that I have shown here today, the Congress is presented with a distorted and misleading representation of the facts because the representative facts for each industry are submerged in the presentation of aggregated data. The set-aside program is supposed to result in a fair percentage of government procurements being reserved for small businesses. In our product area is a 95 percent set-aside a fair percentage? In other product areas is a 0 percent setaside a fair percentage?

My company manufactures highly specialized textiles and textile products. Among the products we make are: chemical protective suits, fire retardant clothing, ballistic ("flak") vests and combat helmets made of a revolutionary new textile product. Consequently, we cannot turn from our government customers and begin selling these items commercially.

Because of the size standard and the 95% set-aside in our product lines companies in our industry are frozen in position.

Companies in our industry cannot be acquired, cannot merge, cannot acquire other companies, cannot expand into new product areas and cannot grow. To do any of these things is to pierce the 500 employee limit. Is that what Congress had in mind when it gave SBA the right to mandate Small Business Set-Asides?

Since SBA has the right to change its size standards, every company which depends upon Small Business Set-Asides is at risk. The size standards can be changed so as to prevent a company from bidding in its product area. Did Congress intend SBA to have the power of life and death over companies?

The Set-Aside Program greatly reduces the value of companies in our industry, since our company cannot grow and cannot be used for growth by other companies. Instead of helping small business to "graduate" to the ranks of large business, therefore, our Set-Aside Program has effectively removed the possibility for growth and expansion in our industry. Is that an appropriate, fair or intelligent policy for the government to pursue?

Because of the very low employee ceiling which applies to our industry, and because of the stringency of the affiliation rules, almost any company can be construed to be affiliated with any other company which it may then be using as a subcontractor.

Every significant manufacturer in our field, therefore, lives in constant dread of size protests and the danger of being determined "other than small" by SBA, resulting in the loss of all opportunity to bid upon set-asides until the decision can be reversed. When you realize that 95% of our product area is set aside for small business, you will realize that a negative determination by SBA is a sentence of death. Should legitimate suppliers to government agencies have to live under such a threat?

In conclusion may I say that the small business set-aside program has grown to dominate our industry. Fifteen yeras ago, the percentage set-aside in our product lines was approximately 15-20 percent. That number has now grown to approximately 95 percent. The meaning of this percentage is unmistakable; if you are not classified a small business — close your doors. Such a situation is unfair to:

- the businesses and their employees in industries where small business set-asides are to high
- the businesses and their employees in industries where small business set-asides are few or nonexistent
- the national economy, and
- the defense mobilization industrial base

The existing set-aside system in our industry, and in others, has badly distorted the national economy in certain areas; and data which would reveal such distortion has been presented in such a way that the Congress has been misled.

Our economy is beset by business competition from foreign shores. In those countries the government provides extraordinary assistance to their businesses to encourage the growth of their economy. In the instance I have presented here today, our government is working in the opposite direction. If we are to employ our people, enhance our economy and lower the current staggering trade deficit, our government must not work at cross purposes with the private sector, by design or by inadvertence.

On behalf of my company, the members of our coalition and the countless others who are adversely affected by the problem I have outlined, I ask that in your deliberation upon H.R. 2133 you give consideration to our problem. We would hope that as you consider the feasibility of placing a "floor" on each product line in the set-aside program, you also consider the necessity of a "ceiling"; and that the "floor" be set so that a reasonable "ceiling" may be accommodated.

Thank you again for the opportunity and honor of appearing before you.

Mr. **Bedell**. Mr. Britt?

Mr. **Britt**. No questions.

Mr. **Bedell**. Mr. Addabbo?

Mr. **Addabbo**. Thank you, Mr. Forman, for your testimony. I looked at the helmet. I thought that was the time you ran into the problems with DLA in Philadelphia.

Mr. **Forman**. It would take more than one helmet to demonstrate that.

Mr. **Addabbo**. I thank you for giving us your valuable time and expertise today. Several of the problems you have raised should be considered by the Subcommittee on SBA and SBIC Authority, because it relates more directly to size standards. Size standard hearings will be held sometime this month which will look into that serious question, directly affecting this industry.

I thank you for the information. I think it should be presented when we have our oversight hearings on size standards.

Mr. **Forman**. May I point out that I know that the intent of the Small Business Act was to create a launching pad for small businesses. I know that. But by not having some sort of reasonable ceiling, the launching pad, instead of being aimed up, is aimed down, because as you succeed, you are going out of business because you have that very low ceiling over your head.

In my industry, 500 employees as a limitation is ludicrous. It's a very highly labor intensive industry. It's sewing. It's just destructive.

This applies not only to my kind of company, which is not an 8(a) company, but even to the minority owned 8(a) companies. As they grow and gather strength, they work themselves right into oblivion. There's nothing left to bid upon because 95 percent is set aside for small business. Nothing left.

Mr. **Addabbo**. I thank you for your comment again. I think it's a very important point to bring up, and a very important point that our subcommittee should consider. Thank you.

Mr. **Forman**. Thank you.

Mr. **Addabbo**. Thank you, Mr. Chairman.

Mr. **Bedell**. Mr. Olin?

Mr. **Olin**. Thank you, Mr. Chairman.

I certainly enjoyed your comments, Mr. Forman. An interesting observation, and an interesting problem, it's not too evident what the answer is.

Mr. **Forman**. Oh, there are answers.

Mr. **Olin**. No matter what we set the overall set-aside at, we can always have some small industry that could go to 100 percent.

Mr. **Forman**. Well, I can give you the solution in literally 15 seconds. It's so simple, and so easy.

All you'd have to do, instead of saying a fair percentage of set-asides shall be set aside for small business, simply say that for no product area shall that percentage of set-asides exceed 25 percent in any given fiscal year. Period; end of problem.

Mr. **Olin**. Some number over 20, let's say.

Mr. **Forman**. Everybody can live. There will be something for the small business, something for the one that is growing, something to bid upon if you're successful.

It also improves the mobilization base, because in my industry, if you want to buy any of these products, or any of the other dozens that we can make, you only have two or three people in the country who can make any of them, because only businesses such as mine are willing to devote themselves to this rather small narrow area, will ever get into it. No big businesses will touch this with a 10 foot pole, because, first of all, they can't even bid. If you ever had an emergency, and needed a lot of this stuff, there are no big businesses that can be involved. They don't even know where to start.

Mr. **Olin**. Fine. Thank you very much.

Mr. **Forman**. Thank you.

Mr. **Bedell**. Mr. Sisisky?

Mr. **Sisisky**. You have pretty well answered my questions. I agree with you. That is a solution.

Mr. **Forman**. It's the simplest of all.

Mr. **Sisisky**. I have problems in the ship repair business that are beyond belief.

Mr. **Forman**. It's not only my industry. There are many industries that are affected.

Mr. **Sisisky**. There are some people that are going out of business, losing employees, so they can bid again. Believe it or not.

Mr. **Forman**. Oh, we've done that. We have done that.

Mr. **Sisisky**. I was going to ask you.

Mr. **Forman**. We've had no alternative.

Mr. **Sisisky**. What is the size of a normal bid in your business, for helmets, for instance? What in dollar amounts?

Mr. **Forman**. This one was a $24 million bid.

Mr. **Sisisky**. $24 million bid.

Mr. **Forman**. Set aside for small business for the most part. This is one of the few that came out that wasn't 100 percent set-aside for small business; it was only 50 percent.

Mr. **Sisisky**. Just suppose you said this——

Mr. **Forman**. This was a $40 million bid. $40 million completely set aside for small business.

Mr. **Sisisky**. You said there were just a few people in your business?

Mr. **Forman**. I say a few people. Two or three can make any one of these items.

Mr. **Sisisky**. They set it entirely aside for small business?

Mr. **Forman**. Absolutely. Ninety-five percent of what's purchased by DPSC, and this is just three of, let's say, you know, 1,000 products. Ninety-five percent of all purchases are set aside for small business. It grew to that percentage about 5 years ago, and has remained at that point, and it will not come down. It'll stay that way.

Mr. **Sisisky**. So if you want to sell your company, you do have a problem.

Mr. **Forman**. Well, I mean, you'd have to be a madman to buy it. You'd have to be a madman to merge with me. I can't buy your company because then I'll be too big. I can't go into other businesses—like, for example, I can't open up a plant to produce ladies blouses to serve as a counterbalance to this, because if I do I'll become a big business.

Mr. **Sisisky**. They do have restrictions on subsidiary corporations?

Mr. **Forman**. Oh, sure. If a company you do business with can in any way be construed as being affiliated with you, and the criteria for affiliation are so tight that they're almost unbelievable, you become big business. It's an absolute steel trap.

Mr. **Sisisky**. The answer really lies, Mr. Chairman, in what Mr. Addabbo has said. The hearings that he'll be having on this issue. I think they will find a solution, and I'm delighted that you brought this to our attention.

I think we need to bring it to the attention of the Department of Defense as well. This type of thing should not exist. I mean, it's just plain common sense that——

Mr. **Forman**. Well, they're doing it in order that that piece of the chart there, that pie in the chart, should look a little larger. In other words, there are industries which have no set-asides.

Mr. **Sisisky**. Do you know any other industry that supplies materials to the Department of Defense?

Mr. **Forman**. That's faced with this kind of problem?

I know that in recent years the architecture and engineering business went from a small percentage of set-asides to 100 percent.

I know that the marine dredging industry faces this problem. I know that office partitions face this problem. I know that certain aircraft parts face this problem.

The reason I know these things is that the Wall Street Journal wrote an article about my company, just pointing out the kinds of problems we face in our industry. For the next week I got calls from all over the United States, all kinds of industries, crying to me and telling me that they thought they were alone in the world, and they didn't know there were other industries that had that problem.

Mr. **Sisisky**. If you won a $100 million contract for those helmets, how many people would you have to employ?

Mr. **Forman**. Well, the only way around this dilemma is to use subcontractors. This poses tremendous problems in the sense that you have to be responsible for the performance of the subcontractors, in life saving equipment frequently, tremendous risks, tremendous responsibilities. The subcontractors are not always available.

Mr. **Sisisky**. Thank you.

Mr. **Bedell**. Mr. Ireland?

Mr. **Ireland**. Thank you, Mr. Chairman.

Like so many of the other small businessmen that have come here, I want to commend Mr. Forman on having the intestinal fortitude to go public. The Wall Street Journal on him that brought others out of the woodwork to say they had the same problem, has put Mr. Forman not necessarily in a very popular position. Yet he's moved forward. He's here today, and I commend him.

Mr. Forman has formed an organization of people with similar problems, the Business Executives for Equitable Procurement.

Mr. **Forman**. This kind of problem.

Mr. **Ireland**. Those facing this kind of problem, I commend you for doing that.

Let me ask you just one question, What about quality control? How does that fit in to this?

Mr. **Forman**. Well, of course, when one wins a Government contract, particularly for life saving equipment, the quality requirements are very stringent. The fact that you're forced to use subcontractors increases your problem. It doesn't mitigate your responsibilities. It is one of the things that you must do. We are frequently forced to do things in a highly inefficient manner, because of the size limitation. There are better ways to do many of the things we do, probably at lower cost to the Government. I am simply saying that the way they have been allowed to grow in certain industries has become counterproductive.

Mr. **Ireland**. It seems to me that some of the procurement people in the Defense Department say, "We'll satisfy these guys by putting all set-asides in one place and ignoring other areas." It's counterproductive.

Mr. **Forman**. That's exactly what happened, sir. That's exactly what has happened. I'm sure everybody's acting in good faith. But, the end result is quite counterproductive.

Mr. **Sisisky**. Will the gentleman yield?

Mr. **Ireland**. Yes.

Mr. **Sisisky**. What are we talking about? The size of the industry? You're talking about three suppliers.

Mr. **Forman**. My industry? No; I said about three suppliers on any given product. At the Defense Personnel Support Center, it buys about $1 billion a year.

Mr. **Sisisky**. Well, it really has no effect to the pie shape there.

Mr. **Forman**. Take my industry, take another couple of industries. Keep in mind all you're talking about is 17 percent of the total defense budget in the first place that seems to be going to small business. I'm sure that included in that are, probably, small business subcontract programs in which credit is given for——

Mr. **Sisisky**. If the gentleman would continue to yield? The only reason I said what I did, is that I would doubt whether the Department of Defense has numbers of suppliers that are there doing it just for that reason. I may be naive to believe they do, but it would seem to me incredible that——

Mr. **Forman**. I believe you would find, sir, that somewhere, there would be directives from DLA telling DPSC to buy every damned thing they can from small business, because they've got goals to meet. That's one of the agencies that can do it for them, and the result is 95 percent satisfactory.

Mr. **Ireland**. The gentleman is not naive; I'm just more cynical than he is.

Thank you, Mr. Chairman.

Mr. **Bedell**. Yes. Is it not correct, if they're trying to meet a goal by making that goal through your industry, they make it a little easier not to buy from small businesses in some of the other areas? They'll meet their goal.

Mr. **Forman**. It's self-evident, sir.

Mr. **Bedell**. Yes.

Mr. **Forman**. Sure.

Mr. **Bedell**. We appreciate very much your testimony. Thank you very much for waiting so long.

Mr. **Forman**. Thank you very much.

Mr. **Bedell**. Finally, our last witness is Paul Seidman. Is that correct?

TESTIMONY OF PAUL J. SEIDMAN, SPECIAL COUNSEL ON PROCUREMENT POLICY ISSUES, NATIONAL TOOLING & MACHINING ASSOCIATION

Mr. **Seidman**. Right. I'm not Mr. Bruce Hahn, who was unable to be with us today.

Mr. **Bedell**. Well, we appreciate your being here today, Paul. And, we want to commend you for your patience in waiting so long. We appreciate hearing your testimony.

Mr. **Seidman**. Again, my name is Paul Seidman, I'm an attorney in private practice in Washington, D.C., and serve as special counsel to the National Tooling & Machining Association on procurement policy matters on whose behalf I am appearing today.

I'm going to summarize my statement in the interest of time, and request that the entire statement be entered in the record.

Mr. **Bedell**. We will be delighted.

Mr. **Seidman**. NTMA represents the tool, die, and precision machining industry. Almost all of the 14,000 companies in the industry are small business concerns. Our members produce many of the parts purchased by the Department of Defense, usually as subcontractors. The parts they produce range from the simplest to the most complex, including such critical hot engine parts as turbine blades. They have the capability to manufacture virtually any part the Department of Defense procures.

We are also testifying on behalf of the 78 member associations of the Small Business Legislative Council, whose members represent nearly 4.5 million small business units, covering the full range of SIC classifications, as well as a number of unaffiliated associations.

The present long leadtimes and geometric-cost escalation experienced by DOD are a result of that agency's penchant for placing contract after contract with the same firms on a sole-source basis. This is done despite the fact that small businesses are ready, willing, and able to perform these contracts at lower prices and with materially shorter leadtimes. The spare parts regulation, recently promulgated by DOD, results in such contracts generally being awarded to large original systems manufacturers on a sole-source basis.

Other contracts are similarly awarded because the Government did not purchase manufacturing data needed for competitive procurement, never received it, even though it paid for it, or has lost or destroyed it. A recent SBA study prepared for this committee indicates that DOD, on the average, saves 40 percent when spare parts are competitively purchased.

GAO subsequently reviewed SBA's findings and found that the SBA may have even understated the potential for savings. Other studies have found even greater savings.

H.R. 2133 would amend the Small Business Act to eliminate bidder and product prequalification as a way for agencies to deprive small businesses of their statutory right to have SBA make the final determination of their capability to perform. It would also remove any SBA discretion to deprive small businesses of this important right. We strongly endorse these provisions, the need for which is amply documented.

In order for a firm to be awarded a Government contract, a determination must be made that it is capable of performing. As a general rule, the contracting officer has the final say on such matters. However, under the Small Business Act, a small business has the right to have SBA make the final determination of its capability to perform, if a contracting officer determines it to be incapable. This review is conducted under SBA's certificate of competency program.

The enactment of certificate of competency legislation resulted from the systematic exclusion of small business from defense contracting during World War II and the negative impact on the defense effort. From its inception, it was intended to save the Government money and strengthen the defense industrial base. It was not intended to be a giveaway program.

The problem was that during World War II, contracting officers repeatedly refused to award contracts to small businesses, because they believed them to be incapable of performing. The same small businesses subsequently performed the work as subcontractors to the large firms awarded the contracts in question. This is similar to DOD spare parts procurement today, in that most parts are manufactured by small business subcontractors which DOD does not want to deal with directly. Because procuring officials underestimating the capability of small business concerns had such a negative impact on the wartime defense effort, Congress enacted legislation giving authority to the Smaller War Plants Corp. to make binding determinations of the capability of small contractors to perform. This certificate-of-competency authority was given to the Small Defense Plants Administration during the Korean war and subsequently transferred to the Small Business Administration in 1953.

The current fiasco in spare parts procurement results from an artifice used by DOD that deprives small business concerns of their statutory right to have SBA make the final determination of their capability to perform. This is done by a system of bidder and product prequalification set forth in the so-called breakout regulation. The concept is fairly simple. If a small business is precluded from bidding by a bidder or product prequalification system, the need to refer the question of its capability to SBA for certificate-of-competency purposes never arises. It is DOD's position that a small business is only entitled to a certificate of competency review if it would have been awarded a particular contract if it were not for the contracting officer's negative capability determination. However, if a small business is precluded from bidding in the first place, this stage of the procurement process is never reached.

The services cite the need for quality assurance in critical parts, a point none of us argue. They point out that their product and bidder prequalification systems are a means to assure that they have reliable bidders who will turn out quality products.

In DOD's opinion, there apparently are few qualified companies, given the paltry 10 percent competitive procurement rates. This is not surprising, since the use of bidder and product prequalification often results from the recommendation of the original equipment manufacturer. The procuring agency asks the OEM whether other firms should be allowed to compete against them, or should first be required to prequalify because unique manufacturing practices are needed. Not surprising, the OEM's generally recommend against competition, and DOD follows such recommendations.

Not only do prequalification procedures often result from the recommendation of the OEM, but in some cases the OEM's have even been tasked with determining whether another firm is qualified to compete against them. We totally disagree with prequalification procedures. Their effect has been to restrict competition, and any quality control aspects have been incidental.

Quality in manufacturing is not merely some vague sense of goodness. It is simple conformance to requirements, requirements that are defined and measurable. Conforming to stringent requirements is nothing new to our member companies. There are specific requirements for instrument calibration, inspection, sampling and quality control set forth in various military specifications. These specifications do not differentiate between large and small companies. Our member companies are generally capable of meeting these requirements, if only given the opportunity. In fact, a great many of our members already meet or exceed MIL specification quality demands when doing subcontract work for EOM prime contractors.

One of the best ways to increase competition and save, perhaps, $5 to $6 billion annually without reducing the quantity or quality of parts procured would be to legislate this artificial barrier to competition out of existence. Provisions that do this are contained in H.R. 2133.

Public Law 95-507 reserves all contracts of less than $10,000 for small business concerns unless the contracting officer is unable to obtain offers from two or more small businesses. As surprising as it may seem, as a result of the interpretation of such statute, H.R. 2133 provisions raising the dollar value to $25,000 would likely decrease spare parts awards to small manufacturers. The reason is that interpreting regulations provide that a small business dealer can provide the product of a large manufacture for such set-asides.

Given the limited degree of competition required in small purchases, procuring officials could conduct a set-aside by soliciting only two small business dealers who sell the product of a large manufacturer. They could also break a $100,000 contract that previously went to small manufacturers intc four $25,000 buys and solicit only small dealers selling the product of a large manufacturer. This is obviously not what Congress intended when it enacted Public Law 95-507.

We therefore recommend that if the threshold for contracts reserved for small business is raised to $25,000, that the product of a small manufacturer must be provided unless the purchase is for local use and not for stock.

Other provisions in H.R. 2133 provide preferences for small businesses and small businesses located in labor surplus areas by providing, among other things, for automatic set-asides, and repealing the Maybank amendment which precludes the payment of a premium for labor surplus area set-asides.

We do not quarrel with the intent of these provisions. However, we are not asking for a handout. We only want a fair chance for small businesses to serve our country's needs by competing for contracts which, in most cases, they can perform more economically than the incumbent sole-source contractors. Current DOD practices result in spare parts contracts being de facto large business set-asides awarded on a noncompetitive basis. It has been repeatedly demonstrated that when such contracts are competed, they are almost invariably awarded to more efficient small business concerns.

As previously noted, perhaps the greatest barrier to competitive spare parts procurements is the unavailability of manufacturing data needed for competitive procurement. In some cases, the Government has not purchased the data. In other cases, DOD has paid for the data but it is marked "proprietary" or it has never been delivered, or it has been lost or destroyed by DOD personnel.

In S. 1730, recently introduced by Senator Alan Dixon and cosponsored by 24 Senators from both sides of the aisle, the Senate attempts to deal with the data problem by requiring DOD to purchase all manufacturing data for major weapons systems, requiring DOD to inventory all data within its possession, and providing small business access to Government-owned technical data needed for competitive procurements. S. 1730 would also permit a contractor to perform a Federal contract unhindered by the threat of an injunction for utilizing another firm's trade secrets. Anyone whose trade secrets have been violated could obtain damages in the U.S. Claims Court, as they now can for patents.

S. 1730 has received the endorsement of major small business groups, such as the National Federation of Independent Business, Small Business United, the Small Business Association of New England, the Small Business Legislative Council, and the National Small Business Association, as well as the National Tooling and Machining Association. We strongly recommend that H.R. 2133 be amended to include similar provisions. In addition, we would recommend that S. 2133 be amended to include language to discourage the practice of routinely marking data "proprietary" even though the Government has paid for it, a practice that for all practical purposes precludes competitive procurement. This could be done by requiring that agencies refer instances of spurious claims of business confidentiality to the Justice Department for prosecution under the False Claims Act, or the False Statements Act.

This concludes my prepared statement. If you have any questions, I would be happy to address them at this time.

[Mr. Seidman's prepared statement follows:]

PREPARED STATEMENT OF PAUL J. SEIDMAN, SPECIAL COUNSEL ON PROCUREMENT POLICY ISSUES, NATIONAL TOOLING AND MACHINING ASSOCIATION

My name is Paul J. Seidman, special counsel to the Association. I was formerly assistant cheif counsel for procurement in SBA's Advocacy Office and a Navy contracts lawyer. NTMA appreciates the opportunity to submit this testimony on H.R. 2133, a bill to increase small business competition in federal procurement.

NTMA represents the tool, die, and precision machining industry. Almost all of the 14,000 companies in the industry are small business concerns. These companies build special tools, dies, jigs, fixtures, gauges, special machines (automation, robotics, and production lines), and precision machined parts or components. They use a wide variety of equipment and processes, including most machine tools from the simplest lathe to complex electrical-chemical milling and electron-beam welding. They commonly achieve tolerances to one ten-thousandth of an inch and regularly use computers as an aid in design, machining, and control of operations. Our members produce many of the parts purchased by the Department of Defense, usually as subcontractors. The parts they produce range from the simplest to the most complex, including such critical hot engine parts as turbine blades. They have the capability to manufacture virtually any part the Department of Defense procures.

We are also testifying on behalf of the 78 member associations of the Small Business Legislative Council, whose members represent nearly 4.5 million small business units covering almost the full range of S.I.C. classification as well as a large number of other non-affiliated business associations.

A list of SBLC members and the nonaffiliated associations on whose behalf we are testifying is attached.

Mr. **Bedell**. Thank you, Mr. Britt?

Mr. **Britt**. When you talk about prequalification, you're really talking about proprietary rights. Basically we're talking about the process of establishing those codes, where it is not going to be bid upon by anyone other than the OEM. Is that what you're getting at?

Mr. **Seidman**. Not exactly. In many cases source approval is required before a firm can bid because unique manufacturing capabilities are needed. The way the system works is that DOD personnel go to the OEM and they ask them, does anyone else have the capability to make this part, or is source approval required? This procedure is used even when DOD has unlimited rights in the data for the parts being procured.

Mr. **Britt**. Of course, there are many codes that would prevent competitive bidding, engineering reasons, and unique capabilities, that sort of thing. What you're saying is that before a small businessman even gets a bite at the apple, he's been carved out of the ballgame by these codings that are done hand in glove with the OEM in one way or another, so that he never really gets into the threshold question of whether he's competitive to produce or not.

Mr. **Seidman**. Yes. DOD claims that it has done away with these contractor recommended codes just released. Defense Acquisition Regulations Supplement No. 6 which it offers as its solution to noncompleted space parts procurement. But, if you look at the document very closely, you'll note that what they have done is just define the problem out of existence. OEM recommendations are still solicited. However, DOD has changed the name for this procedure from contractor recommended codes to contractor technical information codes. They therefore claim that the problem no longer exists.

Mr. **Britt**. So again, what we're going back to—and we've heard this several times today—is this provisioning process, back when you're assigning these codes. The real battlefield is right there at the beginning of the process, when you're assigning these codes, and when you're establishing proprietary rights. If you're going apart from major legislative overhaul on an interim basis for contracts that are now being considered or will be considered in the future, you've got to fight the battle there, try to build into the system the eliminate proprietary rights in sort of an offhand way, and eliminate these restrictive codings at that point in the process, so that the small businessman's going to have a chance to build on it.

Mr. **Seidman**. Exactly. NTMA has repeatedly met with DOD officials, and submitted detailed comments on Defense Acquisition Regulatory Supplement No. 6 prior to its issuance. The comments suggested that DOD have small businesses come in at this initial stage, and have them tell procuring officials what they can do, rather than relying on the primes to tell contracting officials what small businesses cannot do.

Mr. **Britt**. Would there be any merit in considering having a breakout type person in the provisioning process? That is, instead of waiting until you've already got a code that may be restrictive and you must change that code, would there be any merit to having someone defending the interest of small business at the critical point of the provisioning?

Mr. **Seidman**. Yes, there is. Under the new breakout regulation, the breakout procurement center representatives are permitted to participate in the meetings between the OEM's and the services where codes are assigned. However, they are so understaffed they are unable to do the job adequately. They are out-manned in engineering talent by the large prime contractors.

Mr. **Britt**. But would this be a key time to be doing it? Is it more important to be there when these decisions are going to be made, instead of trying to unravel the problem later? Of course, they continue to have recodings and that sort of thing. But, do you agree that provisioning point where those codes are assigned is a critical stage?

Mr. **Seidman**. That is true, assuming that we retain the existing restrictive codes.

Mr. **Britt**. One of your solutions, really, I guess, more of the Senate bill you were discussing, I'd like to know if you have any figures on it, because my understanding is that the figure would be pretty staggering. The chairman has alluded to this earlier, and I'm going to go into it.

You say that the Senate attempts to deal with the data problem by requiring DOD to purchase all manufacturing data for major weapons systems. Do you have any projection or numbers on that? I think that would be a staggering cost, in my understanding of the problem.

Mr. **Seidman**. Well, the OEM's have to generate the data, to make the weapons systems anyway.

Mr. **Britt**. You may have a company that's done years and years of research and development on a problem, and they may have a commercial application for it. They may be willing to do it for the Government. Let the Government use that, if it has a proprietary interest in it.

If the Government is going to purchase it, the accumulated value of that research and development may be a very costly expense. Never pay the dividend return, even on a long process of spare parts procurement.

Mr. **Seidman**. The answer in such a case would be just to purchase a license to use the data for parts procurement and to leave all commercial rights to the owner of the patent.

Mr. **Britt**. But why, if there's no guarantee that the person that's invested in all this research and development is going to be able to continue to receive those contracts, unless that's a pretty lucrative license, why should they part with that if they're not going to be able to benefit from it?

Mr. **Seidman**. Because there are very large price tags on the major weapons systems. In addition, the data needed for competitive procurement is not necessarily proprietary. Most of the data is generated with Federal R&D money.

Mr. **Britt**. Granted, that there's no question about it. When we do the research and development, the OEM should have no propriety rights in it.

Finally, let me ask you this question: If we could find a good solution to it, would it be helpful in the competitive process? It's been asked earlier by Congressman Sisisky.

What suggestions do you have of making information available to small businesses about competitive bidding and about contracts that they might possibly be able to bid on? We need a catalog or multiple catalogs, and we need a computer system with links where they can check periodically. Have you got any thoughts within your association of how—of course your association's spare parts would be very heavily affected by this—we can get the word out to small businesses? This can expand that range of products, too, because you get two or three, even if they're located in diverse geographic areas, that can expand the number of items we can bid on.

Mr. SEIDMAN. One idea might be an electronic Commerce Business Daily. The technology is there, that would enable them to find out about procurements several days earlier by eliminating delays. More and more small businesses are obtaining computers which could tie in.

Mr. BRITT. Thank you, Mr. Chairman.

Mr. BEDELL. Mr. Ireland?

The Chairman doesn't have any questions. That bill has been introduced in the Senate and given consideration; it seems to me we should somehow try to see what data is available from the Senate staff. I assume that would solve the whole problem, if it were something that they sensed was feasible. Could we ask our staff to try to check with the Senate on the bill they have over there, to see what information they have as to how they felt this would work and what it would cost to try to do it?

Thank you very much, Mr. Seidman.

Thanks to all of you for being here, and thanks to everybody. We've had quite a session, from 9:30 in the morning to 4:30 in the afternoon. Thank you.

[Whereupon, at 4:30 p.m., the subcommittee adjourned, to reconvene, subject to call of the Chair.]

COMPETITION IN FEDERAL PROCUREMENT

THURSDAY, OCTOBER 6, 1983

House of Representatives,
Subcommittee on General Oversight
and the Economy,
Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2359-A, Rayburn House Office Building, Hon. Berkley Bedell (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN BEDELL

Mr. **Bedell**. The subcommittee will come to order.

This is the second of 2 days of hearings by the Small Business Committee's oversight subcommittee on legislative proposals to inject a much needed dose of competition into Federal procurement practices.

The oversight subcommittee has before it three very thoughtful legislative proposals directed at Federal procurement practices, H.R. 2130 introduced by Congressman Mavroules, seeks to expand small business access to Federal procurement data. H.R. 3784 introduced by Congresswoman Boxer seeks to encourage Federal employees to consider ways to cut Federal procurement costs, and finally, the oversight subcommittee will consider at these hearings H.R. 2133 introduced by our full committee chairman, Mr. Mitchell, and our colleague on the subcommittee, Mr. Addabbo.

H.R. 2133 is a comprehensive bill directed at several important Federal procurement procedures. It is the oversight subcommittee's intention to consider these three bills and other suggestions raised by our witnesses to increase competition and small business participation in Federal procurement.

Our witnesses at the oversight subcommittee's hearings on Wednesday provided us with a very dramatic, indeed dismal, picture of the way our Federal agencies, particularly the Department of Defense, handle their procurement responsibilities.

Indeed, it is clear that the American taxpayer is being shortchanged by the appalling lack of open competition in the hundreds of billions of dollars of goods and services that the Federal Government purchases annually. The Department of Defense accounts for almost three-quarters of all Federal purchases that take place, less than 7 percent of the procurement activities is done through honest-to-goodness open competition. This is clearly an outrage.

I clearly believe that we have a military procurement system that seeks to eliminate competition, not enhance it. We are literally throwing away billions of dollars every year in totally unjustifiable sole source and limited competition purchases that appear on their face to be sweetheart deals for the large military contractors.

How else can we as Members of Congress reconcile the exorbitant and outrageous prices that the Department of Defense pays for standard and nonessential items as washers, nuts, bolts, and plastic cans?

I have a feeling that as serious as the wasteful spending is, we're witnessing in the procurement of military parts, it is only the tip of the iceberg. If the Department of Defense has such lax standards in this area, dare we even begin estimating the money that is wasted in the original procurements of these items and other components of our major weapon systems?

Today, the oversight subcommittee will listen to testimony from 10 witnesses from the Department of Defense as well as a representative from the Office of Federal Procurement Policy.

I want to conclude my opening remarks with the following comments. On June 13, the Small Business Committee wrote to both the Department of Defense and the OFPP and asked for their comments on H.R. 2133. We asked for these comments by August 12. As of today, almost 4 months since our letter and 2 months past our deadline, we have yet to receive comments from either agency. Therefore, I look forward to today's testimony when we'll get to how the Department of Defense views our efforts to introduce through competition to our procurement system.

Mr. Addabbo, do you have a statement?

OPENING STATEMENT OF HON. JOSEPH P. ADDABBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. **Addabbo**. Thank you very much, Mr. Chairman. Again, as yesterday, this is a continuing problem addressed by hearings and action of my subcommittee. I am not shocked that we have not yet received comments from the agency.

As a matter of fact, we have been discussing in our Defense Appropriation Report since 1968 this very question and have raised the question on many occasions and still we read about the waste, millions and billions of dollars of waste and improper procurement procedures and I'm hoping that the services will read the testimony of those individuals who took time from their business life to come and give us the horror stories that we see—and they're true horror stories.

There's no one to refute it and I think even Secretary of Defense Weinberger has finally realized that after all these years, he has put forth 10 new proposals, new objectives to try and correct these instances.

When we hear the testimony, we'd like to know what they have done as far as the direction that Congress has tried to give them since 1968 in this and whether the reports and whether the findings are getting down to the men who are supposed to be seeing them and maybe that's why we are seeing it again.

Mr. **Bedell**. Thank you, Mr. Addabbo. Mr. Bilirakis?

OPENING STATEMENT OF HON. MICHAEL BILIRAKIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. BILIRAKIS. Thank you, Mr. Chairman. I'll like just very quickly, sir, to say to you and to the American people that I'm still in shock over the testimony of yesterday and I commend you for scheduling the other side, if you will, so we can hear testimony from the other side of the story and I look forward to that testimony this morning.

Mr. BEDELL. Thank you. Mr. Britt?

OPENING STATEMENT OF HON. C. ROBIN BRITT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. BRITT. Mr. Chairman, we heard a lot of testimony yesterday about these overcharges. We're all aware of the impact of that in a time of great budget deficits. I would make today is that every dollar of overcharge robs our readiness posture of a dollar that could be spent for our national defense.

I think it's critical for us in these times of tough fiscal constraint and of extraordinary challenges by Warsaw pact nations and the Soviet Union, to insure every dollar we spend be spent wisely.

Mr. BEDELL. Thank you. Mr. Schaefer?

OPENING STATEMENT OF HON. DAN SCHAEFER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. SCHAEFER. Thank you, Mr. Chairman. Yesterday we heard testimony from many individuals involved in this procurement process.

I would like to commend you for holding these hearings. I think the problems are just beginning to surface. I'm sure that we're not wholly into defense, but in many other areas of our Federal Government.

We heard examples of the outrageous costs for spare parts due to the problems in the procurement system. These are serious problems that every American certainly is paying for themselves.

The atrocity of it all is that we have Federal deficits of about $200 billion and taxes on the U.S. citizen are still burdensome, yet we allow these flagrant wastes and misuse of Federal revenues and taxpayers' dollars.

We can't afford to pay $1,550 for a $50 spare part, it doesn't make sense. One of these examples was used yesterday by Mr. Miller. I would just say that a sucker is born every minute but I'd like to be able to tell my constituents that they haven't been hired by the Federal Government.

I think we've really got to move quickly on H.R. 2133 and again I commend the chairman.

Mr. BEDELL. Thank you very much. Mr. Ray?

OPENING STATEMENT OF HON. RICHARD RAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. RAY. Thank you, Mr. Chairman.

I am a member of the Armed Services Investigations Subcommittee which is looking into this same area, and I think it is a good idea to air out the pros and cons of the situations that are troubling many of us. But after having listened to the proceedings of six or seven sessions, I can tell you there are two sides to this issue.

Bear in mind that the other side will be heard as we go along, and maybe we'll find a good, reasonable compromise somewhere toward the end of these hearings, and we can straighten out some of the problems.

Mr. **Bedell**. Thank you, Mr. Ray. I think that is the purpose of our hearings this morning, to hear the other side of the story. I should report to the committee that I talked to the chairman of the Armed Services Investigations Subcommittee to which you referred just this morning, and indicated to him that it is our desire to work with him in every way we could to try to see that the taxpayers' hard earned dollars are spent wisely.

Mr. Boehlert?

OPENING STATEMENT OF HON. SHERWOOD L. BOEHLERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. **Boehlert**. Thank you, Mr. Chairman. I just would like to repeat what I said yesterday. I feel very strongly about this. It's so often we on Capitol Hill look someplace else as to the problem and suggest that some sort of examination is very much in order.

This situation just didn't develop overnight because people in the executive branch were not living up to their responsibilities. I think it's developed over the years because quite frankly, the Congress has not looked after its responsibilities in connection with its oversight function and I'm very pleased and want to commend you for conducting these hearings.

I think it's very important. I'm not anxious to point at anyone, I'm anxious to contribute to a solution to the problem.

Mr. **Bedell**. Thank you very much, Mr. Boehlert.

Also with us this morning is our colleague, Andy Ireland from Florida who participated with the subcommittee yesterday pretty much full time, and Andy, you should be welcomed and encouraged to do so again today and we want to thank you for your very constructive work in this effort and the work you've done in this area, and we welcome you to this subcommittee.

OPENING STATEMENT OF HON. ANDY IRELAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. **Ireland**. Thank you, Mr. Chairman, and I appreciate those kind words and the opportunity to appear before you and the subcommittee this morning.

I would like to briefly comment on several issues that I believe will be of interest to you. First, I wholeheartedly applaud your efforts to open up competition in the military procurement area. It is shameful to think that our vast defense procurement budget, that out of that 6 percent of the total dollar amount of procurement is open to competitive bidding.

While I realize some of what we are talking about involves complex missile systems and the like, there is still no excuse for such a lack of competitive bidding. Quite simply, the present system allows many of the fraudulent activities we read about to exist because they are not illegal under a sole source contracting and regulatory scheme.

This morning Mr. Bedell and I introduced legislation aimed at fraud and corruption in military procurement. In 1863, the Congress passed the False Claims Act more commonly referred to throughout the years as the "Abraham Lincoln Law."

The Lincoln Law offered great incentive to the public to seek out fraud and corruption in the Government and to file suit against those defrauding the Nation. The law also was well-known throughout the bureaucracy and the business community and thus served as an excellent deterrent to that kind of activity.

This statute, which was strong and tough, lasted until 1943, for 80 years. In 1943, at the behest of the Attorney General and other interested parties, the teeth of the law were removed by amendment. Allow me to explain how the law works at the present time.

Any private citizen may file suit alleging fraud in Government transactions. However, after he files the suit, his filing, along with all the evidence, is turned over to the Government. The Government then has 60 days to enter an appearance and then 6 months after entering an appearance, to decide whether or not to proceed. If they decide to proceed, the citizen is then out of the case and the Government can proceed as it sees fit. In fact, they can then simply ask for dismissal of the case and there all the other problems are gone.

As one can see, the deck is stacked, not in the favor of the public interest. Also, why should the Department of Justice be allowed such wide authority? As Ernest Fitzgerald, the head of the Management Systems Office of the U.S. Air Force has said:

> When did you last see the king's attorney [the Attorney General] prosecute one of the king's men [a presidential appointee] for doing the king's business [handing out patronage]?

Today, Congressman Bedell and I introduced legislation on the subject. It will restore the spirit and the substance of the Abraham Lincoln Law. We have written the President and the Secretary of Defense and asked them to support us.

If we are serious about fighting fraud, then let's toughen up the law and send everyone a message. Any member of the subcommittee, fact all of our colleagues, are asked and invited to become cosponsors.

There is also at the present time another serious question that needs to be addressed. The Federal Aviation Administration has a regulatory proposal aimed at aircraft parts manufacturers industry. My subcommittee held two hearings on this proposal last year.

In my opinion, the proposal is anticompetitive and would eliminate most small manufacturers from this field.

The Federal Trade Commission, the Department of Justice, and the Small Business Administration all have filed comments in opposition as has the industry itself.

This is the fifth attempt in 10 years by the FAA to rewrite the rules. The FAA has told us that there is no safety issue here, but that the rules do need to be changed. It is a mystery to all of us why they feel this way. We have asked the GAO to study the issue, and they have recently begun an investigation.

If such a proposal were to be put in place, we would not be here today worrying about what we should do about the spare parts overcharges because there would be no competition.

Mr. Bedell and I have asked the President and the Secretary of Transportation to investigate why the FAA keeps pressing for their proposal. This issue is one our committee can—if you will pardon the expression—keep the heat on.

I have provided the subcommittee members with a summary paper on these two issues which Mr. Bedell and I have sought to bring to the public's attention.

Finally, I would ask the subcommittee to seriously consider addressing the issues raised by the Business Executives for Equitable Procurement at yesterday's hearing. While small business set-asides are needed, ones that encompass 95 to 100 percent of an industry are counterproductive. They also allow the Department of Defense to load up work for small business in a few areas and do nothing in other areas such as high technology. It seems to me that we should put an end to this practice.

I have briefly summarized a few issues that I believe are worthy of consideration at these hearings. H.R. 2133 is a good bill which I know will get even better as a result of this subcommittee's conscientious efforts.

Mr. Chairman, I thank you.

Mr. **Bedell**. Thank you very much for your statement, Mr. Ireland.

Mr. Addabbo.

Mr. **Addabbo**. Thank you very much, Mr. Chairman. I commend our colleague for his information.

Mr. Chairman, I would ask to take the committee's time as we begin this hearing, with the military here and we listen to their testimony about what they've done and what they expect to do. Our colleague says that maybe it's not the fault of the administration and the military but maybe it's not the fault of the Congress.

I'd like to give some background, and, as the military testifies based on this background we can point out what has been done and why we come hear in October 1983 and see these outrageous figures. I read from a Department of Defense Appropriation Report from 1968. In that report we stated, for example, one of the major portions of these programs were those for procurement of spare parts, particularly in certain initial provisioning procedures.

I question how the Air Force procurements are coordinated with the Navy's in view of the fact that the Navy's program has progressed. The Air Force, on the other hand, has procured items without substantial savings from the prime contractor.

The staff identified 28 items, procured by the Air Force directly from the prime contractor, and noted that 21 of these 28 items were procured by the Navy directly from the supplier, not the prime contractor; 14 of these 21 items were less than the price quoted by the prime contractor to the Air Force, the same items.

At the time of the committee hearings in 1968, no procedures were established to coordinate procurement of these items. The basic objective is to insure quality at reasonable cost, and the most effective demonstrated way to achieve the objective is through timely competitive procurements, the key to achieving realistic competitive procurements.

Again we point out in 1968 the hearings showed the attempt is being made to bring the basic procurement program under control, much remains to be done. There are not clear-cut regulations and procedures or uniform policies for the acquisition of spare parts.

Again in a report of 1969, despite the statistics which purportedly represent substantial improvement over prior years, the Department of Defense continues to negotiate a substantial percentage of the total volume of contracts without price competition.

The inability of the Department to obtain competition because of the complexity of equipment and urgency of the item cannot be used as an excuse for improper contracting procedures.

A key to competitive procurement is the availability of adequate technical data and delivery of technical data. The sole source contractor gets around competition, receiving a follow-on contract and only having to bid on the initial contract competitively.

The simple fact is that the management at all levels in the Office of the Secretary of Defense, and the military services must give more attention to small purchases, and to competitive procurements to insure that the prices obtained by the Government are reasonable.

Again, quoting from 1969, fiscal year 1967, these procurements amounted to $4.3 billion. They should be prime candidates for competitive procurement procedures. Less than 50 percent, however, are being procured by this method. At 50 percent in 1969, instead of heeding the word of Congress, they are now up to 80 percent on sole procurements.

Again, ever since that time, 1979, 1980 sole source contracts are awarded for every item of equipment as well as parts purchased for that equipment. Small components can be purchased directly from manufacturers once an item ends production.

In 1980, the committee recommended that more emphasis be placed on user price reporting systems whereby users can effectively challenge and catalog-price items but today you can't because there's no description, it's a number. They proposed a significant cash award for personnel who would effectively challenge a price of sensibly purchased items.

1981, again same thing; area procurement is one activity which DOD should place additional manpower, move the commercial items to the portfolio where managers could locally purchase commercially available. DOD states it's attempting to encourage increased competition—trying to encourage.

In 1981, same thing; 1982 direct purchase of spares and repair parts from subcontractors should be pursued and repeated in 1982. So, the military has had this direction from the Congress since 1969 but they go on their merry way and we see the waste—instead of helping national defense, we see the waste in national defense, and I think Mr. Britt has said it takes away from national defense when they do not follow the direction of the Congress.

Mr. **Bedell**. Mr. Ireland.

Mr. **Ireland**. Mr. Chairman, if I may interject a moment to underline and support what the gentleman says. In our hearings that we had last year, we found in addressing the FAA, the problem that resulted here, we found much of the same kind of thing documented as the gentleman from New York has and he is exactly right.

Let me point out, to emphasize what the gentleman says, on those replacement parts that have to do with the FAA regulation up there, not one of those parts involved by FAA's own view, has anything to do with safety, so for the moment we can eliminate the safety consideration, the quality is the same.

The first two columns are the original equipment manufacturer, the last column is what the part can be produced for by the small manufacturer under competitive bid. Obviously there's a great discrepancy between the replacement by the PMA holder and the original equipment manufacturer. The first one, of course, is $63 for a Government military contract, and $17.50 for the PMA, the small business.

The incredible thing is that same part sold by the same original equipment manufacturers of the commercial trade is $28.23. We're sitting here watching the military paying $63 instead of $28 for the same part that the OEM is selling commercially.

Now, that just shouldn't be, so there's great merit in what the gentleman says. It permeates the whole situation and it needs to be addressed.

Mr. Bedell. Thank you. The Chairman would hope that we wouldn't get into an argument about whether we're doing what we should have in the past or not. I think the concern is the future and at least in the opinion of the Chairman that if anything should have been pointed out, it is the desire to simply call it to the attention of the Defense Department. Just telling what to do is not going to be particularly effective.

So, we better be sure that we pass some legislation, so that we simply eliminate the possibility of doing that in spite of what oversight we might have, would be the Chairman's opinion.

Mr. Bilirakis?

Mr. Bilirakis. Thank you, Mr. Chairman. I would also like to commend Congressman Ireland. I've known him for a long time, long before I even dreamed of coming to Congress and I've always known him to be a friend, a patriot, a friend of the taxpayer, and certainly a friend of the businessman.

It is interesting to see that this is not a new problem. If they had to pass an Abraham Lincoln Law in 1863, I daresay it apparently existed back at that time. Certainly, it's not new with us in the last 2 or 3 years, it's not even new since 1969, it's something existed a long time before.

I would like to ask the Congressman a question: Why did these amendments take place in 1943, do you know in your research?

Mr. Ireland. Well, I'd suggest to my colleagues that the historical record and it does make interesting reading back to the press releases and the discussion of it, obviously, in 1943 we were in the midst of World War II and the thrust was one of getting any hurdle out of the way that would get the job done.

I wouldn't challenge necessarily the integrity of those that amended the original law at that point in time to move forward the results though in retrospect quite devastating to this whole problem.

Mr. **Bilirakis**. Would you say, sir, in all of this period of time, has there been a gap between 1943 and now?

Mr. **Ireland**. Yes, there's a substantial gap, the incentive is gone. The real carrot here is for the citizen to step in when he sees fraud and call it to the attention of the Government. If the Government doesn't do anything about it, the citizen has no incentive to pursue it at his own expense if he doesn't know that there's something there for his effort. The nature of the law is that there's no real incentive for the citizen to move forward.

With that incentive back in place two things will happen. One, I would venture to say initially, it will put the heat on some of the actual fraud operations.

Number two, the word of it will spread throughout the bureaucracy and business community and people who would be tempted in the past won't be tempted in the future because they will know that the average citizen will step in and do something.

Mr. **Bilirakis**. I would like to make just a general overview statement, I suppose, and I guess I can say this as a freshman Congressman, "Where has Congress been all these years?" Since 1943 weren't we aware of this problem? If we weren't why were we not aware and why haven't we tried to do something about it before now? And, in saying that, I would invite details regarding your proposed bill so that hopefully we might do what we can, if it is possible.

Thank you very much.

Mr. **Ireland**. Thank you very much.

Mr. **Bedell**. Thank you, Mr. Bilirakis. Now that you're here, we're very confident that everything will be straightened out. [Laughter.]

Mr. Britt?

Mr. **Britt**. No questions.

Mr. **Bedell**. Mr. Schaefer?

Mr. **Schaefer**. No questions, Mr. Chairman.

Mr. **Bedell**. Mr. Boehlert?

The Chairman has no questions, except to again commend you for your work and you're certainly welcome to join us if you wish to do so, Andy.

Our next witness is Mr. Tom Amlie, Assistant for Technical Systems, U.S. Air Force.

I should announce that, the committee has a practice that we started yesterday of swearing witnesses in, so if you will raise your right hand?

[The witness was sworn.]

TESTIMONY OF THOMAS S. AMLIE, ASSISTANT FOR TECHNICAL SYSTEMS, OFFICE OF THE ASSISTANT SECRETARY FOR FINANCIAL MANAGEMENT, U.S. AIR FORCE, DEPARTMENT OF DEFENSE

Mr. **Amlie**. Good morning. My name is Tom Amlie. I'm employed by the U.S. Air Force in the Office of the Assistant Secretary of Financial Management, Hon. Russell D. Hale. My immediate supervisor is Ernest Fitzgerald.

I hold a Ph.D. in electrical engineering and some 30 years of hands-on experience in the design, manufacture and test of missiles and other electronic equipment.

Mr. BEDELL. Excuse me, Dr. Amlie. I think we should explain to the committee that your testimony was not cleared with the Department and therefore we do not have written testimony as I understand, is that correct?

Mr. AMLIE. Oh, yes, Mr. Chairman, I should have remarked, I'm a compulsive procrastinator; the clearance process in the bureaucracy requires 10 days and I gave them only 6 days. And, so, the opinions I'm expressing are my own, they have not been cleared by the Department I suspect my immediate bosses would agree with me that they are strictly my own opinion.

Mr. BEDELL. Fine. Now, also the people in the back, if at any time you cannot hear, we wish you would raise your hands.

Mr. AMLIE. About 6 months ago, we began hearing quite serious complaints from the small business community that the volume of business on military spare parts was dropping very rapidly. Mr. Fitzgerald asked me to look into the problem and I talked with many people both in the Government and in the small business community, and am very pleased to be asked to share my findings with you.

I'm sure that all of you have seen in the media the ridiculous prices we pay for spare parts, and you certainly had a full course of it yesterday.

There have also been some statements that these are just anomalies picked by the context. For my own, I looked at it for 6 months and I think there's a lot more things out there like the $435 claw hammer, and the $437 12-foot tape measure.

It has been fashionable to flail away at the defense contractors, but I think we in the Government have to take some of the blame as well. Somewhat to simplify it, the spare parts system works like this: There are three players, the item manager who can manage between one item and 2,000 items, depending on how complicated the items are, the engineering staff, and the buyers. The item manager's job is to track the stock level and when it gets to the trigger point to buy more items. He has no control over how the item is bought, whether it is bought competitively or sole source.

The buyer also has no control over how a part is bought. He must follow what we call a procurement method code or PMC. This is a number and a letter, numbers going from 1 to 5, and A through Z. 1-G and 2-G are the only truly competitive codes. If there is any other procurement method, then the buyer must follow whatever that procedure is.

There is a Defense Inspector General General Report that looked at our buying high value engine parts and it states that approximately 1 percent by dollar of that volume is bought competitively, that is to say 1-G and 2-G, in a truly competitive fashion.

A real problem is that the buyer does not have an idea what he's buying. He has a 13-digit national stock—and, also, a descriptive—identifier number; and it is a form of art to think up names which truly disguises what the item really is.

Well, here is the infamous stool cap. This is the original. We paid $916.55 for that. You all read about it in the Washington Post, I'm sure, and the flat washer you'll see in a minute; it is called a shear pin spacer, and that makes it worth $693.44 for a steel flat washer.

You see there's a flaw in the system. The buyer doesn't know what he is buying. I suspect none of you would like your personal financial affairs managed in that fashion.

One of the Defense Logistics Agency's supply centers has a very clever idea for letting the buyer know what he is purchasing. They have a closed circuit room T.V., and the buyer can call the warehouse and have the part held close to the camera and he can see what he is buying. We in the Air Force are looking quite strongly at that idea. It is simple; it's cheap. It's a good idea.

Now, neither the buyer nor the item manager can change the way the thing is bought. That must be done by the engineers at our logistic centers, and they have no incentive to change. In fact, they have a very strong disincentive to change to competitive.

First of all, they have other duties, and they are hard pressed. They have a lot of work to do. It takes a lot of work to break out a part from restrictive to competitive procurement. You have to be sure the drawings are right, the specifications and so forth. If you have other duties you really don't have time to do this extra work.

Further, there's always the danger you might get a bad part, although, the small business community has done very well. I think the rate of failure and cancellation is about 4 percent. The small business community delivers good quality parts with much shorter lead times and lower prices than the big contractors.

Another problem is, of course, that the prime contractor may go to your boss and complain. Spares are their bread and butter.

Another problem is we do not buy in economical quantities. We in headquarters allocate the funds on a quarterly basis and the buyers must buy on this basis. There are examples of buyers buying the same part six times a year. This is clearly a waste of manpower and further it does not allow us to make the larger buys, which would give us the lower prices per unit.

Let me stress, that the reason for studying the spare parts problem was to identify things that needed to be taken care of. Our secretary, Mr. Orr, has stated on several occasions that he wants to fix, and he is serious about it. We are making changes now and we will make more.

If you had gone to Tinker Air Force Base, say a couple of months ago, you would have found only five people breaking out spare parts. Today we have 90 people whose sole job is to break out spare parts.

We're getting there. We have assigned this many people. We have assigned teams of experienced engineers and master machinists to look at the parts and the drawings to determine if the parts can be broken out and what a fair price should be. Our boss has indicated strongly that he's serious and the system is responding.

Mr. Orr has also gone to field installations and personally presented very handsome checks to people that have distinguished themselves by saving money. Incentives are the major problem, and if we can change the incentives, we can change the way the system works or doesn't work.

Well, back to the list of things we do wrong. In what management writers refer to as suboptimization, we try to improve efficiency by rating our buyers on how many buys they make, in effect, how much money they spend instead of how much money they save.

We rate our fiscal managers on "executing the program," that is, spending the money before the end of the fiscal year. The argument is that if we don't spend a lot of money, then Congress will cut the budget next year. Unfortunately, there's a lot of truth in that.

It seems to me that the Congress and DOD management could easily solve that, there should be a fairly simple solution to that kind of problem.

The basic reason that we pay too much for spares is we do not do advertised competition with sealed bids as required by law.

The principal reason is that there are no incentives. In fact, there are strong incentives not to do so. As I said before, the engineers are the only ones who can change the procurement method, codes and they're afraid of being blamed if they get a bad or late part.

The prime contractor—which means the original equipment manufacturer—can and frequently does threaten to sue us for breaking out spare parts, but very few actually do, mostly, I suspect, because they would lose.

As noted earlier, we are now assigning fairly large numbers of skilled people for the purpose of breaking out parts for competitive procurement. I think we will see real improvement soon.

During the course of my investigation, I concluded that we in the Air Force could and should be doing better, but that we are already doing better than the other services.

Now, Mr. Chairman, with all due respect, you people can write all the legislation you want on your side of the river, and we on our side of the river can write all the regulations we want; unless we change incentives, nothing is going to happen. It's the nature of the part.

If we did the incentives right, we probably wouldn't need the law to get their a– prosecuted or get caught. I have with me a tape, but Congress apparently doesn't own a tape player. I have a superb 20/20 ABC thing from 5 years ago equipment and administration and different parts. Well, the spare parts problem is not new. It has been with us for years. I will leave the tape with the committee. I urge you to see it; it's a powerful thing. It shows whistle blowers, who among other things objected to spending $91 for a 3-cent cadmium plated wood screw you can buy in any hardware store. There are other examples, but that's about the most absurd. He was instantly fired, blackballed, a graduate engineer now running a yard-care service.

My boss, Ernest Fitzgerald, got in trouble for not lying to Senator Proxmire.

Senator Proxmire said, "Is there or is there not a $2 billion overrun on the C5A?" Ernie waffled and mumbled and finally said, "maybe" when everyone in the room knew that the answer was "yes."

For that he was fired. It took 14 years and over $1 million worth of legal services to get his job back. For every Ernie Fitzgerald with the gumption and resources to fight back, there are hundreds who simply say the devil with it or retire, or get fired, or get transferred, or whatever.

So, we simply must get incentives straight.

The other major problem, and I'm sure you have heard a lot about it yesterday, is rights and data.

Even after we had spent hundreds of millions, even billions to develop a weapons system, the contractor tells us that the design is proprietary. I don't know what proprietary means. I know what patents and copyrights are, but I don't understand proprietary.

Further, copyrights and patents expire after a period of time, 17 years. A proprietary right is forever. Now, it seems to me that if we could take a stamp, and stamp the drawing or document proprietary, we could close the patent office and you can close the copyright office and save a lot of money.

It's not something that we engineers can do anything about. The lawyers have the act.

Now to the bureaucratic horror story which precipitated the wholly justified complaint of the small business community: When Robert McNamara was Secretary of Defense he had a compulsion about centralizing everything, including the logistics function.

Anyone who has ever worked in an organization that has a central typing pool can predict exactly how well that was going to work. The Defense Logistic Agency was formed, and it has five procurement centers to buy food, fuel, uniforms, construction supplies, and millions of other items that it takes to keep us going. These items are mostly catalog or store items.

About a year and a half ago, it was decided to transfer 200,000 more line items from the services to DLA. Now, these are not ordinary things you can find in a catalog or store. They are specialized aircraft parts that must be made to unique drawings and specifications.

It was decided that the Air Force's fair share of these 200,000 was 92,300; of these, 3,183 were coded "G" for competitive procurement.

The Air Force did a good job of boxing up all their drawings and specifications. We made sample bid sets for all the things that were G-coded. To say that the DOA was unprepared is an understatement. They were swamped. And, among other things, began recoding G-coded items to more restrictive codes, so they could revert to going back to the prime contractors and thus speed up the buying process.

It is important to note that this does not speed up the procurement process because the big contractors generally have a much longer lead time than the small businessman.

I think this was unfortunate because the Air Force had put in a lot of time and effort to break out the parts to G-coding, and to develop a network of competent mall business suppliers who delivered good parts at good prices, and with a substantially shorter lead time than the prime contractors.

Starting in October 1982, the number of awards made to small business dropped sharply because more and more workable parts that had been procured competitively began to be delivered from the prime contractors again.

Thus, we find examples of ashtrays and bottle holders being critical to flight safety and being procured from the prime even after we in the Air Force had broken them out.

I must emphasize that most of the horror stories you have seen in the media and in your hearing yesterday were about parts the services procured.

The horror stories about parts DLA procured will not come out for a while, and since next year is a Presidential election year, they will probably not get much media attention.

This arrangement made it very difficult for the DLA to break out parts because the people who control the PMC's are not in Philadelphia. They are in Oklahoma City, San Antonio, and other logistics centers.

To their great credit, I think, for instance, the Defense Industrial Supply Center in Philadelphia has set up a group of five people who are very aggressive in breaking out parts, and recording that to "G" codes whenever possible. Every time a small businessman calls me with some horror story involving this, I call these guys and they fix the problem instantly. I'm very impressed with their aggressiveness, attitude, and the results they are getting. It should be expanded.

Now, my own view that this transfer of parts from the services to the DLA was a blunder, having been in the bureaucracy over 30 years, I think the bureaucracy cannot admit to a blunder. I think that competition in the private sector is a good idea, it might also be a good idea in the Government.

So we should possibly think of an arrangement where if the people in DLA want to break out a part currently held by one of our ALC's, they should be free to do so and, of course, vice versa.

This implies giving the DLA more engineering capability, but the payoff would be enormous.

As I remarked, it's important to note that the spare parts problem is not new. It has been a scandal for years. A major reason for this is that spare parts are just not very interesting and do not normally receive much management attention.

In general, however, the Congress and DOD management have their hands full grappling with problems such as the MX, B1, Stealth, nerve gas, and other controversial issues.

A major point that I would like to leave with the subcommittee is that these spare parts "horror stories" were not dug up for investigative journalists. They were dug up by Air Force people who were told to identify the problems, and to make recommendations on how to fix them. We are doing that.

Our management has already made changes, and I think we're going to make more. I have mentioned the things we do wrong in this process, to help the committee understand why the problem could exist. We have unfortunate procedures to go through, and we are going to change it.

I think now that we understand what it is we are doing wrong, we're going to move very rapidly to fix the problem.

[Mr. Amlie's prepared statement follows:]

PREPARED STATEMENT OF THOMAS S. AMLIE, ASSISTANT FOR TECHNICAL SYSTEMS, OFFICE OF THE ASSISTANT SECRETARY FOR FINANCIAL MANAGEMENT, U.S. AIR FORCE, DEPARTMENT OF DEFENSE

My name is Thomas S. Amlie. I am employed by the United States Air Force in the Office of the Assistant Secretary for Financial Management, the Honorable Russell D. Hale. My immediate supervisor is Mr. Ernest Fitzgerald.

I hold a Ph.D. in electrical engineering and have some 30 years of hands-on experience in the design, manufacture and test of guided missiles and other electronic equipment.

About six months ago we began hearing complaints from the small business community that the volume of business on military spare parts was dropping rapidly. Mr. Fitzgerald asked me to look into the problem. I have talked with many people, both in the government and the small business community, and am pleased to be asked to share my findings and views with this committee.

I am sure that all of you have seen in the media the ridiculous examples of the prices we pay for spare parts. There have also been some statements that these were just anomalies selected out of context. I am personally convinced that there are thousands more examples just as bad as the $435 claw hammer and the $437 12-foot tape measure.

It has become fashionable to flail away at the defense contractors but we in the government must also share a lot of the blame.

Somewhat simplified, the spare parts system works like this: There are three players: the item manager, the engineering staff, and the buyer. Depending on the complexity of the parts, an item manager can manage between 1 and 2,000 line items. His job is to track the stock level and to initiate procurement when the stock on hand drops to a certain level. The buyer makes the actual buy. Each line item has an associated procurement method code or PMC. The PMC consists of a number (1 through 5) and a letter (A through Z). If the PMC is a 1G or a 2G, the buyer can, and should, make the buy through open competition. All other PMC's are restrictive in some way and the buyer must follow whatever procedures are called for. The DOD Inspector General did a study of procurement of high-dollar spares by the three services. Approximately 1% by dollar volume of the large sample they studied was spent on G-coded parts.

A real problem in the system is that the buyer does not know what he is buying, only that it is a 13 digit national stock number and has an identifier noun. It is a form of art to think up identifier nouns which disguise the true nature of the item. Thus this object, which most of us would call a steel flat washer, is in reality a shear pin spacer. Two like it also sold for $693.44 each. After this part was broken out to small business the price went down to $2.00 each, although for a much larger quantity.

One of the Defense Logistics Agency's Supply Centers has a clever approach to letting the buyer know what he is buying. They have closed-circuit TV cameras in the warehouse and the buyer can request that the part be held in front of the camera so he can see it on the screen of his computer terminal. We are looking at this.

Neither the item manager nor the buyer can change the PMC, only the engineers at our logistics centers can do this and there is no incentive to do so. In fact, there are strong disincentives to change the PMC and buy competitively. First, it takes a lot of work and the prime contractor might complain to your boss. Also, if you change to competitive procurement and get a bad or late part (which doesn't happen often) you can be criticized, whereas if you go back to the prime contractor, you can claim you did your best even if the part is defective or late. From the data I have seen, the small business contractors deliver good quality parts with much shorter lead times and much lower prices than the big contractors.

Another problem is that we do not buy in economical quantities. We at Headquarters allocate the funds quarterly so the buyers must buy on this basis. There are some examples of a buyer buying the same part six times a year. This is not only a waste of manpower, it does not allow us the lower prices we would get with larger quantities.

Before I set my hair on fire with this litany of what we do wrong, let me stress that the reason for studying the spare parts problem was to identify the things that need to be done to fix it. Secretary of the Air Force Verne Orr has stated on several occasions that he wants it fixed and he is serious about it. We are making changes now and we will make more. As an example, at Tinker Air Force Base in Oklahoma City, you would have found only a handful of people a few months ago engaged in "breaking out" spare parts for competitive procurement. Now, there is a high visibility organization of 90 people whose only function is to procure replenishment spares (which is bureaucratese for spare parts) on a truly competitive basis. We have assigned teams of experienced engineers and master machinists to look at parts and drawings to determine if the parts can be broken out and what a fair price should be. Our boss has indicated strongly that he is serious and the system is responding. Mr. Orr has also gone to field installations and personally presented handsome checks to people who have gone out of their way to save money. The incentives are the major problem and if we can change the incentives, we can change the way the system works or doesn't work.

Back to the list of things we do wrong: In what management writers refer to as "suboptimization," we try to improve efficiency by rating our buyers on how many buys they process; in effect, how much money they spend instead of how much money they save. I suspect that no one here would like his personal finances to be managed this way.

We rate our fiscal managers on "executing the program," i.e., spending the money before the end of the fiscal year. The argument is that if we don't spend all the money, Congress will cut us next year. Unfortunately, there is considerable truth in that. It seems to me that the Congress and the management of the DOD could reason together and come up with a simple solution to that problem.

The basic reason that we pay too much for spares is that we do not do advertised competition with sealed bids as required by law. There are two main reasons for this.

The principal reason is that there are no incentives to do it. In fact, there are strong incentives not to do so. As mentioned earlier, the engineers who are the only ones who can change the PMC's are afraid of being blamed if they change a PMC to a "G" code and then get bad or late parts. The prime contractor or OEM (which means original equipment manufacturer) can, and frequently does, complain and threaten to sue, although very few actually do take us to court. Mostly, I suspect, because they would lose. In addition, it is a lot of work to do the engineering to break a part out properly and these engineers have other duties. It is also more work for the buyers. As noted earlier, we are now assigning large numbers of skilled people to the sole duty of breaking parts out for competitive procurement. I think we will see real improvement soon. Also, in the course of my investigation I concluded that we in the Air Force could, and should, be doing a lot better but that we were already doing better than the other services.

With all due respect, you good folks on this side of the river can pass all the legislation you want and we on our side of the river can write all the regulations we want, and nothing will change unless and until we get the incentives right. If we get the incentive right, we would not even need all the laws, rules, and regulations.

The plain truth of the matter is that the big spenders get promoted and rewarded and the tightwads do not. The tightwads are frequently harassed, persecuted, and fired. I have a segment from an excellent ABC 20/20 show of ten years ago that I would like to show to illustrate this point.

Mr. Applegate was black-balled and how runs a yard-care service. If took my boss, Ernie Fitzgerald, 14 years and over a million dollars in legal services to get his job back. His sin was in not lying in answer to a direct question from Senator Proxmire. Senator Proxmire asked: "Is there or is there not a $2 billion overrun on the C–5A?" Ernie evaded, mumbled, and waffled and finally said "Maybe", when everyone in the room knew that the answer was "Yes". For this, he was fired. For every Ernie Fitzgerald who has the resources and gumption to fight back, there are hundreds who give up, retire, get transferred, or get fired. We simply must change the incentives.

The other major problem is rights and data. Even after we have spent hundreds of millions or even billions to develop a weapons system, the contractor tells us that the design is proprietary. I am not a lawyer and I don't know what proprietary means. I know what a patient is, I have five myself. I know what a copyright is, but I don't know what a proprietary right is and nobody can give me a satisfactory answer. Further, patents and copyrights expire after a period of time, proprietary is forever. We are still buying spares from 25-year-old drawings marked proprietary even though we can show we paid every penny of the development costs. The same goes for special tooling; we paid for it but we don't own it and can't use it. This is a matter we engineers cannot address. The lawyers have to get after it. It seems to me that if one can get a proprietary right by simply putting a stamp on a piece of paper, then we could close the patient and copyright offices and save a lot of money.

Now, to the bureaucratic horror story that precipitated the wholly justified complaints of the small business community. When Robert McNamara was Secretary of Defense, he had a compulsion to centralize everything, including the logistics function. Anyone who has worked in an organization with a central typing pool can predict exactly how well that would work. The Defense Logistics Agency was formed. DLA has 5 procurement centers buying food, fuel, uniforms, construction supplies and the millions of other items it takes to keep us going. These items are mostly standard catalog or store items. About a year and a half ago, it was decided to transfer 200,000 more line items from the services to DLA. These are, for the most part, not ordinary things that you can find in a store or catalog, but are specialized aircraft parts which must be made to unique drawings and specifications. It was decided that the Air Force's fair share was 92,300 line items. Of there, 3,183 were coded "G" for competitive procurement. About one-third of these went to the Defense Industrial Supply Center (DISC) in Philadelphia. The Air Force did a good job of boxing up all the drawings and specifications. We made sample bid sets for the items that were "G" coded. To say that DISC was unprepared is an understatement. They were swamped and, among other things, began recoding "G" coded items to more restrictive codes so that they could revert to going back to the prime contractors and thus speed up the buying process. It should be noted that although this spends up the buying process, it slows up the procurement process because the big contractors generally have a much longer lead time. This was unfortunate because the Air Force had put in a lot of time and effort to break out the parts to "G" coding and to develop a network of competent small business suppliers who delivered good parts at good prices and, as noted, with substantially shorter lead times than the prime contractors.

Starting in October of 1982, the number of awards made to small business dropped sharply as more and more awards for parts that had been procured competitively began to be procured from the prime contractors. Thus, we find examples of ash trays and thermos bottle holders being critical to flight safety and being bought from the primes even after they had been broken out.

I must emphasize that most of the horror stories you have seen in the media were about parts that the services procured. The horror stories about parts that DLA procured will not come out for a while and, since next year is a Presidential election year, will probably not get much media coverage.

This arrangement also made it very difficult for DISC to break out parts for competitive procurement because the engineers who control the PMC's are not in Philadelphia, they are in Oklahoma City, San Antonio, and at our other logistics centers.

To their great credit, the people at DISC seem to be recovering. They have set up a small office of 5 people who are aggressively breaking out spares and recoding back to "G" codes wherever possible. Every time a small businessman calls me with a new horror story involving DISC, I call this group and they fix the problem quickly. I am very impressed by the attitude, aggressiveness, and results obtained by this group. It should be expanded.

It is my own view that this transfer was a blunder but, since a bureaucracy cannot admit to a blunder, the parts will not be transferred back and we will have to make the best of it. If one believes, as I do, that competition in the private sector is a good thing, then competition in government should also be a good thing. It should be possible, for instance, to set up a system where, if one of our ALC's wants to break out a part from under DISC cognizance, it should be allowed to do so, and vice-versa. This implies giving DLA more engineering capability but the pay-off would be enormous.

It is important to note that the spare parts problem is not new, it has been a scandal for years. A major reason for this is that spare parts are just not very interesting and do not normally receive much management attention, although the subject is getting a great deal of attention at the moment. In general, however, the Congress and DOD management have had their hands full grappling with problems such as the MX, B-1, Stealth, nerve gas, and other controversial issues.

It is also probably true that the spare parts problem is getting worse as we buy more sophisticated equipment which requires more maintenance per hour of usage and hence more spare parts.

A major point I would like to leave with the Committee is that these spare parts "horror stories" were not dug up by investigative journalists, they were dug up by Air Force people who were told to identify the problems and to make recommendations on how to fix them. We are doing that. Our management has already made changes which should help a lot and will certainly make more. I have mentioned the things we do wrong in this process to help the Committee understand why the problem exists. Now that our management understands the causes of the problem, we are well on the way to fixing it.

Mr. **Bedell**. Thank you very much, Mr. Amlie.

Mr. Addabbo.

Mr. **Addabbo**. Would you agree with the Appropriations Committee that we should do away with the DLA, that they are being wrongdoers in not performing the obligations for which the DLA was created under Secretary McNamara.

Mr. **Amlie**. I think it was probably a silly thing to do in the first place—extremely disruptive both to human beings and to the bureaucracy. I would say they are trying very hard; they are assigning people and these people are working very hard to break out parts. I think it was a mistake but I think that just abolishing DLA would cause a terrible disruption.

Mr. **Addabbo**. You mean phasing out over several years might accomplish quite a bit on national defense savings?

Mr. **Amlie**. I would prefer, Mr. Addabbo, that is, I really feel strongly that there ought to be competition between the DLA and the services with similar rewards going to he who does best.

Mr. **Addabbo**. Speaking of rewards, we understand that sometimes there's adverse action toward those persons such as yourself, who come forward and tell the Congress and the American people where the waste is. After such a happening, we've seen in several cases there's severe harassment and a change in duties, obligations, and responsibilities.

I would tell this to you and any person working for the Government, that if that ever should happen, if they should have any type of harassment, immediately notify myself and the committee so it can immediately be contested because they are the true Americans who are looking to preserve our national defense and not those who just do business as usual, who don't make waves, because as they point out, they're getting experience.

This is not new to Congress as you pointed out; it's been around, and I don't know why. Probably the DOD believes that the Congress writes reports and directions to them for our own good or for the paper printed, but it doesn't mean anything if it does not get down to the working group.

Hopefully DOD will follow the directives that Congress gives.

In your many years of experience with the Air Force and dealing with the problem, have you seen any new directives in the last year? I know something has come out in the last several weeks because of the publicity given to this issue. As I said before, the spare parts issue has never been lost in the shuffle. If you get a bad B-1 or a carrier or something like that, you get spare parts lost in the system. Again, have there been over the years any change of direction, knowing what the problem is, knowing that many items are not properly purchased of an item so it can be bought as a commercial item? Has there been any directives issued by OSD——

Mr. **Amlie**. Yes, indeed, and quite recently—actually, I've only been with the Air Force since last November. I was with the Navy, am retired and came back to work——

Mr. Orr has issued—and he's serious—he goes out and he gives very handsome checks.

Mr. **Addabbo**. When you were with the Navy, in your previous experience, did you see any directives, any change of orders over the years?

Mr. **Amlie**. No.

Mr. BEDELL. Mr. Bilirakis.

Mr. BILIRAKIS. Mr. Amlie, going back to the transfer of 200,000 items, when did that take place?

Mr. AMLIE. Well, the transfer of the 200,000—took place in the spring and summer of 1982.

Mr. BILIRAKIS. The spring and summer of 1982?

Mr. AMLIE. Yes.

Mr. BILIRAKIS. And then the G ratings were changed sometime after that?

Mr. AMLIE. Yeah, and I do not fault DLA. They were simply swamped. Their planning was inadequate. They are right now 90,000 purchase requests behind, they're falling behind, and really they simply don't have the people.

Mr. BILLIRAKIS. You don't feel then that they would change so that they could be sure that these items would in fact go back.

Mr. AMLIE. Oh, no, they were just simply——

Mr. BILIRAKIS. I interpreted your statements to say that.

Mr. AMLIE. I'm sorry, I had no intention of saying that. There's nothing sinister at all. They're just swamped.

Mr. BILIRAKIS. Are many of these now being returned back to competitive status?

Mr. AMLIE. Yes.

Mr. BILIRAKIS. And you're satisfied with that B-1 or a carrier or something like that, it has its headlines, but when you get bad spare parts lost unless he has got then the horror story——

But again, have there been over the years any change of direction, knowing what the problem is, knowing that there's wrong cataloging, many problems, but many items not with proper discriptions of the items so that it can be brought as a commercial item or has there been any directives issued by OSD——

The directives that Congress give them, hopefully DOD.

Mr. AMLIE. I'd like—the DLA given more slots or whatever they have to do to put more competent people on exactly that.

Mr. BILIRAKIS. Sir, you indicated at the top of your testimony that your bosses would agree with your testimony?

Mr. AMLIE. I so did.

Mr. BILIRAKIS. If you had submitted this testimony in a timely fashion that your boss was——

Mr. AMLIE. Oh, yes. Your reference is kind of rigid, and I'm a world class procrastinator.

Mr. BILIRAKIS. Mr. Fitzgerald is your boss now?

Mr. AMLIE. Yes.

Mr. BILIRAKIS. Do you feel that he—that the raps, are off on him? In other words, do you feel that he's cooperated with, and capable of doing the job that needs to be done?

Mr. AMLIE. I won't touch that with a 10-foot pole. [Laughter.]

Mr. BILIRAKIS. Sir, did DLA plan to return the G—the items that were transferred over, 200,000 items, they are being returned back to the services?

Mr. AMLIE. I don't know.

Mr. BILIRAKIS. But if they were returned to the services, would that ease possibly a transition?

Mr. AMLIE. I would prefer that the DLA be given more space to complete the other services—the competition should give——

Mr. **Bilirakis**. I have no further questions, Mr. Chairman.

Mr. **Bedell**. Mr. Britt?

Mr. **Britt**. You mentioned that the incentives were wrong and based on what you described and what we've heard I think that is part of the problem. What suggestions do you have? You talked about the fact that the current emphasis for buyers is on the number of buys, not the money saved. So, there's no incentive for this to be a competitive business. As far as other incentives, how would you see it? What should we be doing?

Mr. **Amlie**. Well, when I was at Tinker, the people there told me that if they could keep 1 percent of what they could save, they would work for no salary at all.

Mr. **Britt**. So, you're saying, if we can have some—the same.

Also there's the issue of risk, that is to say, I think you mentioned—you mentioned that, if someone goes competitive and takes time away from the—and gives that out to the small business, and there's some problem, then that's the risk, because they've done something different; they've rocked the boat and now because that part has some flaw is that a problem?

Mr. **Amlie**. No. I think the rate of cancellation of contracts for cause is up 4 percent.

Mr. **Britt**. But, you know, it's easier just to order that part—and it would be in the shop right there.

Mr. **Amlie**. Much easier.

Mr. **Britt**. And, so, that's the incentive we have to change. We have—at least should make it where it is easier or at least as easy——

Mr. **Amlie**. That's correct.

Mr. **Britt**. To order from a competitive bidder than it is to order from OEM.

Mr. **Amlie**. Right.

Mr. **Britt**. Is there an objective price? We've got Government contract price, commercial price. Is there a way to objectively establish if there's enough available knowledge and technology in measuring the system in the industries to know what a spare part should cost. If so, how would you go about doing that?

Mr. **Amlie**. Well, we're doing it now at our ALC's. In order to explain that, I'll give a minilecture on industrial engineering.

The American worker has for many years been the most productive worker in the world because the industry was very good at minimizing the amount of human labor required to make a part: the car, the washing machine. And they did this by making the designs easy to assemble and by inventing automatic machine tools and automatic assembly crew.

The human factor's people used time and motion studies and other studies, mostly the so-called "should cost," and the key to that is something called a standard labor hour. This is not a unit of time, it is a unit of work and is defined as the amount of work that a man will do an hour, that a trained worker will do in an hour working at a normal pace. And we put in allowances, 15 percent for going to the bathroom, coffee breaks, et cetera.

So, if you—and a good team of industrial engineers can predict within 10 percent how many standard hours are required to make a product. And, then, if you multiply that by your costs per standard hour, you come very close to the true cost of making the product.

Now, if you make only a few, then the setup costs for the skilled machinists and the cost of any special tooling. So, quantity is important but you get—you can predict very closely. And the people we've assigned at our ALC's, our master machinists and skilled engineers and they get certainly within 25 percent of the hours required or standard hours required.

Mr. **Britt**. What might be a cost for a standard hour in the machine tooling industry——

Mr. **Amlie**. Well, the small business people I have talked to are delighted to sell us a standard hour of high quality machine work for between $25 and $35. That includes all markup and profit.

In the electronics industry—they pay them about half as much as they would machinists, we get a standard hour of high-grade electronic manufacturing from between $20 to $25 including again all markup, overhead and profit.

Mr. **Britt**. Do we know what that comparable figure would be for spare parts for defense contracts?

Mr. **Amlie**. Well, we're beginning to. Mr. Orr, last spring was very distressed by what he heard about one contractor, and ordered us to do studies of similar large contractors. And we are sending teams of very skilled people to the contractor's plant. We're beginning to get there.

The lowest number we have so far is $99.69.

Mr. **Britt**. $99

Mr. **Amlie**. And 69 cents per standard hour.

Mr. **Britt**. Is it a fair comparison to compare $99 with $35?

Mr. **Amlie**. Oh, yes. Now, again, this is the lowest we have found.

Mr. **Britt**. This is the lowest figure you're getting?

Mr. **Amlie**. So far.

Mr. **Britt**.What is the highest figure you get?

Mr. **Amlie**. $3,300, and that's the work of an——

[Laughter.]

Mr. **Amlie** [continuing]. And that's for work of very poor quality. The $99.69 is very interesting to me because it is for the manufacturer of the proximity used on the present Sidewinder, and I invented that 25 years ago, and I'm very pleased to see it doing so well. [Laughter.]

Mr. **Britt**. What you're saying there is an objective measurement, though. Obviously there are a lot of factors, but at least within a range there is a way to determine what a spare part really ought to cost?

Mr. **Amlie**. Oh, yes. There is a way to determine on a whole system—an airplane, ship or anything using these techniques. Most of the numbers we're getting are between $150 and $300, per standard hour, roughly between, 5 times the amount and 10 times the amount when compared with competitive——

Mr. **Britt**. No more questions.

Mr. **Bedell**. Mr. Schaefer?

Mr. **Schaefer**. Dr. Amlie, I wasn't sure I caught this right, but the 1-G and the 2-G codes are the competitive codes; is that correct?

Mr. **Amlie**. Yes.

Mr. SCHAEFER. What percent of the total dollar spent is in these few codes, to the best of your ability?

Mr. AMLIE. The only report I have right now is what we call an Inspector General Report dated April 11, 1983; it says, 1 percent.

The percentage would be higher if you included all the little washers, springs, nuts and bolts, it would be higher.

Mr. SCHAEFER. Still on G-1, and G-2?

Mr. AMLIE. Yes, sir.

Mr. SCHAEFER. You mentioned something about improvements that you have been making and you communicated that you were responsible. To your knowledge, within the Air Force, how many breakout PCR's are there?

Mr. AMLIE. About 90 people have been assigned at Tinker AFB.

Mr. SCHAEFER. Because yesterday, if I am not mistaken, it was indicated there were in testimony only 5.

Mr. AMLIE. There had been, but there is more now a competition advocate.

Mr. SCHAEFER. I think those five are under the Small Business Administration.

Mr. BEDELL. I think he's talking about other people that are——

Mr. SCHAEFER. All right. I just wanted to make sure that I was right on that.

And, can you give me a little bit of an explanation—this is something amazing to me, but you said something that the buyers are rewarded for the more money they spent.

Mr. AMLIE. They are really rated on how many buys they process.

Mr. SCHAEFER. What is that, just because of the amount of workload that they do? And therefore the more that they certainly turn over and the more money they spend through this particular procurement process, is how they are rated on whether or not they are going to be advanced in their position; is that correct? Salarywise?

Mr. AMLIE. The key to this is very easy and very simple to buy from the prime. And it's really a lot of work to go competitive. You have to assemble bid packages. The engineers have to check and make sure the drawings and specifications are correct. You have to put them in the bid room. We have to wait 30 days.

It's just a lot of work, and right now there is no incentive to use bidding procedures.

Mr. SCHAEFER. Thank you, Mr. Chairman.

Mr. BEDELL. Thank you, Mr. Schaefer.

Mr. Ireland.

Mr. IRELAND. Thank you, Mr. Chairman.

Sir, your discussion about incentives is very enlightening. Mr. Ernest Fitzgerald, in the past, in some of his writings and discussions, has called for a tougher False Claims Act, as I outlined earlier in my testimony. Do you agree that there needs to be more incentive in the private sector for citizens to be interested in this process? Would that be helpful?

Mr. AMLIE. I have no opinion. I think if we get the incentives right in the Government, there wouldn't be any more, or at least there would be far fewer horror stories.

Mr. IRELAND. I hope we do. Thank you.

Mr. BEDELL. Mr. Boehlert?

Mr. **Boehlert**. Mr. Amlie, do you know if there's ever been a case history developed on something very simple and basic like the $435 claw hammer to try to determine who made the ultimate decision? I assume it went to the committee, about the claw hammer, who made the ultimate decision to pay $435 for a claw hammer? Do you know if there's ever been an examination of this? Because I'll tell you why. If someone worked for me and paid $435 for a claw hammer, that person wouldn't be working for me tomorrow.

When we talk about Secretary Orr being commended for giving handsome incentive checks to those who distinguish themselves, how about pink slips for those who extinguished the——

Mr. **Amlie**. Mr. Boehlert the claw hammer and the tape measure were cheap shots. Those were Navy problems. I must defer to Admiral Sansonne. [Laughter.]

Mr. **Boehlert**. Have you ever seen any example, right from the beginning to the end of how this happens.

Mr. **Amlie**. Yes. The Washington Post had a superb article on the plastic stool cap.

Mr. **Boehlert**. But someone had to make the basic decision to purchase this part at this price.

Mr. **Amlie**. The buyer didn't know what it was.

Mr. **Boehlert**. The other thing that sort of scares me a little bit about what you're suggesting is, when you talk about incentives, cash incentives particularly, and I can understand some of it.

Mr. **Amlie**. Well, more than that, the freedom to retire is one of the nice incentives we give you. [Laughter.]

Mr. **Boehlert**. Most of us on this committee will be very supportive; those of you with courage to stand up and say what needs to be said.

Mr. **Amlie**. See, I don't have much courage; I'm retired. [Laughter.]

Mr. **Bilirakis**. That's all. I thought you were leading up to this and possibly maybe you weren't but we talked about cash incentives. [Laughter.]

We have a whole large number of people in all the agencies in the Federal Government who day to day are paid by the American taxpayers with the expectation that they're going to do the job they're hired to do. And, why do we always have to talk in some terms of bonus and reward to someone who doubtfully should be rewarded?

Mr. **Amlie**. Well, as I indicated, there's a great deal more work to go toward incentive. Now, is OMB or whoever is in charge must be willing to give a lot more spaces to the Air Force for our ALC's and DLA. It requires either a lot more people or people who just work a lot harder than they've ever worked in their lives.

The people at Tinker told me they come in on Sundays for nothing if there were incentives. It's a philosophical question.

Mr. **Bilirakis**. I've love to talk to these people at Tinker who say that they would work without any compensation if they could be given 1 percent of the amount they save and I would like to know what they're doing to accomplish that objective anyway, without getting that reward. Do you see what I mean?

Mr. Amlie. Yes, sir. They have a quota they have to meet, they have to buy. They simply must meet their quota. And the only way they can do it is to go to the prime; we don't have the people.

Mr. Bedell. We did have someone here yesterday from Tinker Air Force Base. That was one of those four breakout specialists.

Mr. Bilirakis. He said that he had saved, I think it was $3.9 million last quarter. They did that voluntarily?

Mr. Amlie. Yes. He was the SBA breakout man. That's his job though.

Mr. Bilirakis. That's his job. Did he work extra hours in order to be able to accomplish that without a dollar incentive involved?

Mr. Bedell. We don't know, I guess, if he did or not, but that was his sole job. He was charged with trying to find how to save money through his breakout.

Mr. Bilirakis. Thank you very much.

Mr. Bedell. This, we would call a flat washer; that's a shear pin spacer, all $963.44 worth.

Mr. Amlie. It's a high quality steel, Mr. Chairman, it's called 4130. That could be broken out.

Mr. Boehlert. If we were actually sleuths and investigators, are you suggesting to me that it would be impossible for us to determine what person made the ultimate decision to purchase that? That's scary if that's the case.

Mr. Amlie. It is the case, sir.

Mr. Boehlert. Then that's scary.

Let me tell you something, to get back to what Mr. Addabbo said earlier. I have great respect for my distinguished colleague from New York. We talked about back in 1968, back on Committee on Appropriations, in 1968, 1969, 1970, and 1971, 50 consecutive years, reports are issued and requests are made and demands are made by the Congress, but you indicate to us the situation is getting worse, and that also is a bit scary. And so that pinpoints, doesn't it, very clearly for all of us to see the essential aspect of what we're about today.

Mr. Chairman, I can't commend you enough for proceeding here, and it's extremely important that we not just talk about it, we've got to do something in terms of legislation, get some real teeth in it.

I hope you heard Mr. Addabbo very clearly, because he actually—what he said, that people like you who are willing to come up here and lay it on the table. If there are any repercussions at any time, any heat, any harassments, please let us know, because it's important that others follow and tell us these stories, so that we have the information we need to do what needs to be done and should have been long ago.

Thank you.

Mr. Amlie. I can see that you absolutely agree with Mr. Addabbo that Congress has been screaming about this for a long time. Now it's time for us to do more than scream. We've got to get some legislation moving that makes it do what we think it ought to do.

Mr. Addabbo. That's why legislation is needed. We try not to do it by legislation because legislation is the harshest way to do anything because we don't want the fusion of micro/mini management, but when over the years, the Defense Department turns a blank ear to saving defense dollars then the only action you can take is legislation.

Mr. **Boehlert**. Mr. Chairman, just one further observation. I'm just fascinated by all this, but at the Science and Technology Committee we're in the midst of a markup of very important legislation. I just don't like to leave here right now, it's very important. It's not a lack of interest; it's another assignment I have to go to.

Mr **Bedell**. I would think in our legislation, if I might be so bold as to suggest that we should look at whether or not there's some way to make somebody accountable with purchasing. Certainly, if we were operating a business, we'd have a purchasing agent. If he paid $500 for a hammer, as Mr. Boehlert suggested, I think we would be upset. We are going to mark up legislation to deal with this. I would challenge the members of the committee to give some type of amendment that could be worked out.

Mr. **Bilirakis**. Mr. Chairman, I would agree. I think to have enough legislation which merely would provide case incentives without some sort of a penalty, if you will, for those who are not doing their job for what they're paid for, after all, they're paid so much per hour or whatever the salary structure might be to do a job. We're awfully remiss to be constantly dwelling on the cash incentives without going into the rest of it.

Mr. **Bedell**. There may be something in that bill.

Mr. **Addabbo**. I don't think it's the fault of the buyer as much as it is the fault of the culprit, the one who sets the original catalog number, because the buyer is stuck. He gets an order from the Air Force and Navy to buy XYZ part. He doesn't know what that part is. The XYZ part doesn't come through by name, but by number only.

The culprit here is a man who did not put a claw hammer down as a claw hammer, as a commercial item and put that as a proprietary item; and then it sits in the books year after year without anyone looking at it. So, that's the culprit that we must go after.

The buyer, he's not at fault, because he is given an order. It's an order that is not clearly spelled out; it's a catalog number.

If we can insist that the catalog number also be a description that he can put in saying that, hey, this is just a hammer, why it costs me $475. The main culprit whom we've been trying to get to, and the Defense Department has been trying to get to, is the man who catalogs this originally. That is the culprit that causes this type of problem.

Mr. **Bedell**. Do you think if he were to call it an engineering nail extractor and metal applicator rather than a hammer, you would question him on that description.

Mr. Amlie, you indicated this engineer because of something that he brought up in this regard. Did I understand you correctly?

Mr. **Amlie**. Yes. He objected to their paying, among other things, $91 for a piece of wood screw. And, then, he was judged not to be a team player.

Mr. **Bedell**. Is that available to the committee to find out the name of this gentleman?

Mr. **Amlie**. Of course. I will leave the videotape. I would recommend to the committee that they look at this videotape.

Mr. **Bedell**. He's still with the service?

Mr. **Amlie**. Oh, no, he's been blackballed. He runs a yard-care service.

Mr. **Bedell**. Oh, I thought he was raking leaves.

Mr. **Amile**. He is; he runs his own company.

Mr. **Bedell**. I think we would like to have that information.

Mr. **Amlie**. I'll leave it with Mr. Mark Levine.

Mr. **Bedell**. You said you have patents. Is it possible to get a patent on a machinegun, while you develop a better machinegun?

Mr. **Amlie**. Certainly.

Mr. **Bedell**. Then, I would hold the rights to that in terms of patent——

Mr. **Amlie**. Certainly.

Mr. **Bedell**. That would be one way for people protecting their rights. I assume that is available to them?

Mr. **Amlie**. Oh, certainly.

Mr. **Bedell**. Other than——

Mr. **Amlie**. Mr. Chairman, I think if the Government pays for the development we should have some rights. We pay hundreds of millions to develop things, and then the contractor tells us the design is proprietary.

We pay a lot of money for special tooling and we don't own it and can't use it.

Mr. **Bedell**. In procurement, we are looking pretty closely at the spare parts procurement scandal. In your opinion, is there or is there not a problem? I should say, in regard to procurement of weapon systems in terms of checking and to see that there is some effort to buy a system which would seem to be the most economically advisable and effective——

Mr. **Amlie**. Mr. Chairman, the numbers I gave to Mr. Britt were for the manufacture of complete systems was all—standard hour in response to procurement.

Mr. **Bedell**. I understand that, but I'm asking you a different question. We get reports, for example, of troop carriers that are costing ten times as much as the German tactical equipment and they operate better than the American one and we get all these sorts of reports. We have no way to know whether this is just things that are exciting to the public to read or what.

In your opinion, is there legitimacy to the reports?

Mr. **Amlie**. I think in general it works reasonably. Well, I believe, for instance, the F-16 is the finest fighter in the world by a long ways, and I'm proud to have worked on the Sidewinder for 20 years. It's the deadliest missile anybody's ever built.

The F-15 is head and shoulders above anything that——

There are some awful horror stories. The M-2 Abrams kills people, and generates a tremendous overdraft.

Mr. **Bedell**. I guess my question is, in your opinion, and you're saying that they should not be made out of aluminum. Is there anything in the system so that people who question that can be heard and so it can be properly considered as to whether or not you might be right or wrong?

Mr. **Amlie**. Not that I'm aware of, no.

Mr. **Addabbo**. Well, there is. Before they make a final decision—there is a Science Review Board which is made up of military people—who make the final decision to let them go ahead with it, and they've made quite a few mistakes. We're paying for them.

Mr. Bedell. We thank you very much for your testimony.

Mr. Bedell. Our next witness is Mrs. Mary Ann Gilleece, Deputy Under Secretary of Defense, Acquisition Management, Department of Defense.

[The witness was sworn.]

TESTIMONY OF MARY ANN GILLEECE, DEPUTY UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING (ACQUISITION MANAGEMENT), DEPARTMENT OF DEFENSE, ACCOMPANIED BY HARVEY GORDON, ASSISTANT DEPUTY UNDER SECRETARY FOR ACQUISITION, AND NORMA LEFTWICH, DIRECTOR, SMALL AND DISADVANTAGED BUSINESS UTILIZATION, DOD

Ms. Gilleece. Let me first introduce the people who are accompanying me today; they are the Assistant Deputy Under Secretary for Acquisition, Mr. Harvey Gordon, and the Director of Small and Disadvantaged Business Utilization for the Department of Defense, Norma Leftwich.

Mr. Chairman, it is a pleasure to appear before the committee today on the procurement practices within the Department of Defense as well as the legislation being considered by the committee at this hearing.

Let me mention that at the beginning of this administration, Deputy Secretary Carlucci focused on improvements that should be made to the acquisition process. The Department put together 32 initiatives that have been referred to as the Carlucci initiatives that comprise, however, the acquisition improvement program.

Much progress has been made in the last 2 years toward improving the procurement process within the Department as evidenced by the second year review. In fact, 13 of those initiatives have been implemented. Another group of nine show varying degrees of progress but require further implementing action by staff elements.

The second year review identified a third group of initiatives that are particularly challenging and important and require high-level management attention. Therefore, in May, Deputy Secretary of Defense Thayer combined these initiatives into six major areas and he intends to focus his management emphasis on those initiatives.

They are program stability, multiyear procurement, economic production rates, realistic budgeting, improved support and readiness, and encouraging competition.

The record over the past 2 years indicates that important progress has been made on these six initiatives. However, there is clearly more to be done.

With regard to the initiative concerning competition, there is a very high-level working group chaired by Mr. Gordon, it is currently working on this initiative. Recognizing that there is room for improvement, competition advocates have been identified in the major buying activities to insure that competitive opportunities are not lost and inhibiting factors are identified with steps taken to overcome these factors. Department of Defense components have already established goals for increasing competition.

The President recently issued a memorandum to the heads of agencies stressing competition in procurement. Currently the Administrator of the Office of Federal Procurement Policy has issued for public comments a proposed policy letter on noncompetitive procurement.

The Department is working with the Administrator and his agency for developing such policy guidance. That proposed policy is designed to curtail noncompetitive procurement. Clearly, this administration is making a determined effort to improve competition.

Mr. Chairman, I'd now like to digress for a moment from my prepared statement. I have brought with me, because I was cognizant that yesterday you did spend some time on your chart on formal advertised bidding. I brought copies that are being distributed of some things I would like to share with the committee as far as statistics are concerned and which may broaden the scope and explanation of competitive bidding in the Department.

Let me first mention that there are two methods by which the Armed Services Procurement Act, title 10, chapter 137, authorized the Department to purchase items. Those two ways are formal advertised procurement, that being used when in fact we know exactly what we're going to buy. Formal advertised procurement pertains to the statistics that you have before you.

There is a second method of procurement defined by law, that being negotiated procurement. In order to use the negotiated method of procurement, it must be justified under one of the 17 exceptions to the formally advertised method of procurement.

There are, however, competitive negotiated procurements. All negotiated procurements are not, per se, sole source. Many are also competitive. So, to broaden the scope of your chart for a moment, I might suggest that you would also in addition to having advertised procurements for competitive bidding, also to include, if you were going to discuss competition, those which are competitively negotiated.

Mr. **Bedell**. Excuse me. We need to understand what negotiated competition is. We would never have that in private industry that I know of.

Ms. **Gilleece**. I understand that, sir. The Armed Services Procurement Act which is title 10, chapter 137, says the Department will buy in one of two ways. Formal advertised procurement and the time that you'd use the formal advertised procurement is when you know exactly what you're going to buy and you can define with preciseness the specifications of the product or service you wish to procure.

So that all you need to do is open up the bid at a particular time at a particular place without any further discussion at all with the contractor. In essence, the winning contractor is determined by price and price alone. If, however, you cannot specifically define your requirement, then you find yourself in a position where you must negotiate with a contractor.

For example, if you were going to buy a M-1 tank, you could not necessarily define exactly what it is that you would need. You would put out request for proposal [RFP] and have the contractor come in and discuss with the personnel within the Department so that you would arrive at the point where you had a meeting of minds as to what you would be buying and the contractor would be supplying.

Therefore, a negotiated procurement would be the method that you would use in that instance, it would allow you to negotiate with the contractors. This method of procurement would also provide for competition among contractors.

Mr. **Bedell**. I don't want to prolong it, but if I were a buyer and I didn't have a negotiated competitive contract and the two of you came in and offered me something, it would be my discretion as to which I buy, and if one had the best price, I would not necessarily have to buy from him. Am I correct?

Ms. **Gilleece**. That is correct, sir. There are oftentimes when you are looking at the technical performance of a particular system that is being offered. It is not always the case that you simply buy for the lowest price.

There are other considerations and those considerations are put forth in the request for proposal which is issued to the contractors.

Mr. **Ireland**. Mr. Chairman, just so we can get the definition right?

Mr. **Bedell**. Sure.

Mr. **Ireland**. Is there anything in the regulation you referred to that refers to negotiated competition? To me this is a gross misuse of the word "competition."

It says "negotiate" and it says "competition." It doesn't say anything about how we put negotiate and competition together.

Ms. **Gilleece**. Mr. Ireland, the question——

Mr. **Ireland**. Would you answer me? Are those words together in this law? Does it say negotiated competition?

Ms. **Gilleece**. No, it does not, sir.

Mr. **Ireland**. That's all I needed to know.

Ms. **Gilleece**. It says negotiated. It also says——

Mr. **Ireland**. It also says competition in another place; they don't work together.

Ms. **Gilleece**. No, sir, it says in the law that all contracts will be competed. That's what the law requires us to do.

Mr. **Ireland**. Let me ask you to repeat what you just said. There is nothing called negotiated competition or competitive negotiation in the law as such, is there?

Ms. **Gilleece**. No, sir——

Mr. **Ireland**. All right, I think what we have here is a smooth way of confusing the issue.

Ms. **Gilleece**. Sir, may I refer for a moment to the——

Mr. **Bedell**. Why don't you go ahead with your testimony?

Ms. **Gilleece**. The piece of paper that I asked to be handed to you shows the figures we are using here before the committee. You will see that the 7.5 percent, "Competition in Procurement" is the title——

Mr. Chairman, if I may digress for a moment, Mr. Gordon has shown me that 10 U.S.C. 2304(g) specifically says that——

Mr. **Gordon**. It says that competition will be applied to negotiated procurements unless there is a specific sole source determined to be required and justified.

Mr. IRELAND. Again, let me just say that that's more of the same gobbledygook by definition of the word "negotiate." When you start negotiating, you're not competing, and it's not in there and the gentlelady has given the correct answer.

Ms. GILLEECE. Mr. Ireland, I am going to have to disagree with you.

Mr. IRELAND. If you're negotiating with somebody, are you competing with somebody else?

Ms. GILLEECE. They may be negotiating with five different contractors.

If I may continue, Mr. Chairman, $7.5 billion as stated in your chart was formally advertised; $26.5 billion are negotiated by price competition; $8.2 billion are negotiated by design and technical competition. Follow-on after price or design technical competition, $26.3.

Catalog or market price is $1.9 billion, and the noncompetitive is $32.4 billion. If I might explain, we recently had occasion to be provided some information from the Air Force Systems Command and I believe we have two other pieces of paper, one of which at the top says, "Fiscal Year 1983 Field Projections."

Those are the specific figures from the Air Force Systems Command. It shows that 74 percent of the contracts projected to be awarded by the Systems Command are followons, followons for price for technical competition.

The other piece of paper gives you the 15 major weapon systems that the Air Force Systems Command awards after price or technical competition. You see them there from the B-1 to the A-10 to the—20 percent of the Air Force Systems Command were projected competition and 6 percent for sole source.

Mr. Chairman, continuing to the topic of spare parts as you indicated, we should look toward the future and clearly that is what we're doing.

On July 25, Secretary Weinberger signed a memo to the highest management levels in the services, the Under Secretary of Defense, the Inspector General, and defense agencies, outlining a 10-point program to, in his words, "* * * ensure that we are not plagued with pricing abuses in the future."

While not going into the specifics of that 10-point program, let me just highlight a few of them that might be relevant to the committee's discussion as you've heard in the last day and a half.

We should offer incentives, he says, to increase competition and reward employees, employees not in the job of identifying the savings, but rather when it is not within their particular job, who rigorously pursue cost savings.

For example, the $1,100 bonus to the Air Force sergeant who uncovered and reported the excessive price on a spare part is a perfect example. It was not his job to do so. If it were, he would not be rewarded by a monetary remuneration because it would have been his job to seek out such savings.

However, he did realize that we were paying too much money for that particular part and brought it to the attention of his superiors.

As a corollary we should discipline employees including reprimand, demotion, and even dismissal if they are found negligent in implementing our procedures.

Furthermore, Mr. Weinberger defined that we should have refunds given to the Government where we have been overcharged. In many cases, the legal rights to recover payments of excessive charges should be exercised by the Department in recovery of those amounts.

Even where we do not have the legal right to obtain a refund, we clearly should stress with our senior managers that we should not be paying exorbitant prices and should encourage the defense industry to reimburse the Treasury for any exorbitant prices paid.

The Defense Acquisition Regulation Council is presently considering a deviation which would permit solicitation of voluntary refunds without prior approval of the service secretary in each instance. Furthermore, our own audits and investigations will continue.

A number of audits are currently underway by the Inspector General. Audits and investigations are now focusing on the broad ramifications of spare parts procurement, including not only the prices we pay, but also how spares are controlled and used once they are in our inventory.

The 10-point program represented an immediate and firm response to the problems which were larger and more pervasive than we thought when we initiated the investigations which uncovered them. The program has purposely broadened the scope and showed this administration's resolve, again in Mr. Weinberger's words, "To ensure that we do not waste one dollar of the taxpayers' money."

On August 29, the Secretary issued a more comprehensive memo that reaffirmed the 10-point program and it went on to detail specific actions, some with precise milestones, to address different aspects of the spare parts acquisition program.

I might also mention that it specifically defined the problems that are within the system now and bases the improvements on the problems as identified. Again, I'll not go into each action that is to be made within the Department, but mention a few: It is now mandatory that the Department of Defense parts control program be used on all weapon systems and equipment acquisition. The parts control program promotes use of standard parts throughout the system acquisition cycle, from engineering design through production and even into modification.

This is accomplished through an engineering review of nonstandard parts and recommendations of preferred standard item replacements. Only about 40 percent of all weapon system contracts currently employ parts control. Secretary Weinberger has directed mandatory application of the DOD parts control program.

We think that increased use of parts control will not only optimize the use of standard parts with the attendant advantages in logistics support, but will also promote competition for those standard parts reducing costs and minimizing sole source situations.

Value engineering is also mentioned in this memo. I must admit it is a discipline which has as its objective the identification of more cost effective alternate solutions and it's cyclical in its application.

This administration and through the effective leadership of Mr. Weinberger, we will continue to focus more fully on the value engineering aspects of our procurement process.

Value engineering will be employed to investigate situations where the costs or prices of spare parts exceed their intrinsic value. Value engineers must review spare purchases to reduce excesses.

Where possible, we must acquire technical data unencumbered by unnecessary proprietary restrictions to allow for competitive procurement. Allowing appropriate proprietary rights in data is beneficial to everyone concerned.

Defense contractors would hesitate to use their latest technology in our weapon systems if they thought the competitive advantage that they had developed would be in jeopardy through unrestricted use of the technical data.

Therefore, Mr. Chairman, we must balance those considerations. On the one hand, we must be able to encourage our contractors to use their best efforts toward improving our technology while at the same token, we must be able to have the data for reprocurement packages when it is appropriate.

Proprietary data restrictions must be challenged and must be deleted where appropriate. Much of our data storage and retrieval capability is seriously behind the state-of-the-art and this inhibits our ability to use the data we do have in the most efficient manner.

When we have data, we must be able to retrieve it, keep it up-to-date, and use it when we need to. A number of programs are currently underway for automating our data repositories to improve this situation. The acceleration of this automation effort has now been directed by the Secretary of Defense. Specific consideration should be given during source selection to breakout and competitive procurement of spare parts.

I might add that the initiative that the Deputy Secretary has defined which includes support and readiness would clearly force us to consider up front the readiness and support necessary down the line.

A revised regulation, Defense Acquisition Regulation Supplement No. 6, dealing with breakout of spare parts was recently issued in August. It provides procedures for screening requirements for replenishment spares to break them away from systems contractors for the purpose of buying them competitively or from the actual manufacturer.

The Secretary directed immediate implementation of this regulation as a matter of the highest priority. Mr. Chairman, I think there are very relevant parts to this particular regulation and I would share them at this time with the committee.

First of all, the Small Business Administration Procurement Center representatives may be directly involved in the breakout determination.

Second, in the past, the contractor has recommended when a part should be broken out and the Department was to accept that recommendation. Now the contractor may make a recommendation, but the Department makes the decision as to whether an item should be broken out.

Third, every buying year, if a particular contractor is expected to sell an aggregate of $10,000 of a particular item to the Department, then that particular item must be examined for breakout. I think with the implementation of this directive, it will clearly lead to better procurement of the spare parts.

Mr. Chairman, we are strong supporters of small business. We recognize the strength of our industrial base is highly dependent on the quality products and services of small business. The Small Business Innovation Development Act of 1982, and its predecessor, the defense advanced technology [DSAT] program within the Department of Defense, are clearly successful.

For fiscal year 1983, 300 research and development topics were selected from the 2,900 proposals we received. For fiscal year 1984 with additional funds as required by law, 650 topics have been selected. There has been great interest in this program and we expect a significant increase in proposals for the fiscal year 1984 program.

Awards to small business firms totaled $20.1 billion in fiscal year 1982. An additional $13.4 billion was awarded by our prime contractors to their first tier small business subcontractors. A very significant figure, I might suggest, is that in terms of the number of contract prime awards from the Department, 70 percent of them or 7.7 million were placed with small business. The Department is keenly interested in promoting small business interests and clearly recognizes the vitality they contribute to a healthy defense base.

Mr. Chairman, regarding H.R. 2133, I am somewhat handicapped in presenting our views since the Department's report to the committee on this bill has not yet been considered by the military departments and other defense agencies nor has it been coordinated with the Office of Management and Budget.

However, we do wish to speak to some of the provisions of the bill that we are particularly concerned about. The provision, section 8(b)(7)(E), stating that no small business shall be denied the opportunity to make an offer because its product is not on a qualified products list, is an unacceptable provision.

The selection of an item requiring this qualification is a tightly controlled process and products must meet rigid control criteria. These quality criteria considerations are restricted to the selection to those items which are critical to reliability and safety of personnel and equipment.

The items must be produced to specific design considerations. Out of our inventory of over 4 million items, there are only 1,340 specifications for which qualified product lists [QPLs] are authorized. There are an average of five suppliers per QPL and a number of these suppliers are small businesses.

Another provision that we object to is the requirement when negotiating sole source for the purchase of spare or replenishment of parts for certification by the head of the buying activity that the parts are available from only one source, the need is urgent, disclosure of the need would compromise national security, the party has a legitimate proprietary interest, or a statute requires procurement from a specific source.

We already require approval above the level of the contracting officer for a noncompetitive action exceeding $25,000. Our reforms in the acquisition process of space parts will increase competitive opportunities. This provision of the proposed legislation would require voluminous paperwork and cause unacceptable delays in procurement. This burden would, in our view, exceed any assumed benefit.

Another example is the provision regarding priority in the award of contracts and subcontracts to areas of unemployment which would essentially repeal the Maybank amendment. We are strongly opposed to this provision of the bill.

Such a set-aside will reduce competition and increase prices for defense supplies and discriminate against small firms not located in areas of high unemployment.

In my view, this bill and bills of similar nature, despite how well intentioned, will not improve the effectiveness and efficiency of the procurement process, but rather handicap and constrain the process with delays, costly administrative burdens, and needless paperwork.

We do not believe that such bills will benefit small business in the long term. Mr. Chairman, the tools that should be available to the contracting officers and the procurement work force, are the ones that will help us to accomplish our mission of providing for the defense of this country. We need the appropriate tools, however, we clearly are opposed to tools that would hamper us in our defense mission. We at this time would be willing, of course, to answer any questions and help to provide the committee with anymore information that might be required.

[Ms. Gilleece's prepared statement follows.]

Prepared Statement of Mary Ann Gilleece, Deputy Under Secretary of Defense for Research and Engineering (Acquisition Management) Department of Defense

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, YOU REQUESTED OUR APPEARANCE TO DISCUSS PROCUREMENT PRACTICES AND H.R. 2133, A BILL TO AMEND THE SMALL BUSINESS ACT WITH THE INTENDED RESULT OF PROMOTING COMPETITION AND IMPROVING SMALL BUSINESS ACCESS TO CONTRACTING OPPORTUNITIES.

WE HAVE BEEN HARD AT WORK IMPROVING OUR ACQUISITION PRACTICES. THE FORMER DEPUTY SECRETARY OF DEFENSE BEGAN AN EFFORT THAT BECAME KNOWN AS THE DOD ACQUISITION IMPROVEMENT PROGRAM (AIP) WITH 32 INITIATIVES. MUCH PROGRESS HAS BEEN MADE IN IMPLEMENTING THESE INITIATIVES. WE HAVE RECENTLY COMPLETED A SECOND-YEAR REVIEW OF THIS PROGRAM AND FIND THAT 13 INITIATIVES HAVE BEEN IMPLEMENTED. ANOTHER GROUP OF NINE INITIATIVES SHOW VARYING DEGREES OF PROGRESS BUT REQUIRE FURTHER IMPLEMENTING ACTION BY STAFF ELEMENTS.

FINALLY, THE SECOND YEAR REVIEW IDENTIFIED A THIRD GROUP OF INITIATIVES WHICH ARE PARTICULARLY CHALLENGING AND IMPORTANT AND WHICH REQUIRE HIGH LEVEL MANAGEMENT ATTENTION. IN MAY, DEPUTY SECRETARY THAYER COMBINED THESE INITIATIVES INTO SIX MAJOR AREAS OF MANAGEMENT EMPHASIS AND OUTLINED AN ACTION PLAN FOR THEIR IMPLEMENTATION. HE HAS COMMITTED HIS PERSONAL ATTENTION TO EACH OF THE FOLLOWING INITIATIVES:

- PROGRAM STABILITY;
- MULTIYEAR PROCUREMENT;

- o ECONOMIC (STABLE) PRODUCTION RATES;
- o REALISTIC BUDGETING;
- o IMPROVED SUPPORT AND READINESS; AND
- o ENCOURAGING COMPETITION

THE RECORD OVER THE PAST TWO YEARS INDICATES THAT IMPORTANT PROGRESS HAS ALREADY BEEN MADE IN EACH OF THESE AREAS, BUT IT IS ALSO EVIDENT THAT A GREAT DEAL HAS YET TO BE DONE.

WITH REGARD TO THE INITIATIVE TO ENCOURAGE COMPETITION, A HIGH LEVEL WORKING GROUP, WITH MY DEPUTY FOR ACQUISITION AS CHAIRMAN, IS CURRENTLY WORKING THIS INITIATIVE. RECOGNIZING THAT THERE IS ROOM FOR IMPROVEMENT, WE HAVE TAKEN ACTION TO FOCUS ON THIS MATTER. COMPETITION ADVOCATES IN MAJOR BUYING ACTIVITIES HAVE BEEN ESTABLISHED TO ENSURE THAT COMPETITIVE OPPORTUNITIES ARE NOT LOST AND INHIBITING FACTORS ARE IDENTIFIED AND STEPS TAKEN TO OVERCOME THESE FACTORS. DOD COMPONENTS HAVE ESTABLISHED COMPETITIVE GOALS.

THE PRESIDENT RECENTLY ISSUED A MEMORANDUM TO THE HEADS OF AGENCIES STRESSING COMPETITION IN PROCUREMENT. CURRENTLY THE ADMINISTRATOR OF THE OFFICE OF FEDERAL PROCUREMENT POLICY HAS ISSUED FOR PUBLIC COMMENT A PROPOSED POLICY LETTER ON NONCOMPETITIVE PROCUREMENT. THE PROPOSED POLICY IS DESIGNED TO CURTAIL SUCH PROCUREMENTS. CLEARLY, THIS ADMINISTRATION IS MAKING A DETERMINED EFFORT TO ENHANCE COMPETITION IN PROCUREMENT.

MUCH ATTENTION HAS BEEN GIVEN RECENTLY TO EXAMPLES OF ALLEGED OVERPAYMENT FOR SPARE PARTS. LET ME TELL YOU ABOUT SOME OF THE INITIATIVES WE HAVE TAKEN TO IMPROVE THE SITUATION AND SYSTEMATICALLY REDUCE OUR COSTS FOR SPARE PARTS.

ON JULY 25, SECRETARY WEINBERGER SIGNED A MEMO TO THE HIGHEST MANAGEMENT LEVELS IN THE SERVICES, THE UNDER SECRETARIES OF DEFENSE, THE INSPECTOR GENERAL, AND DEFENSE AGENCIES OUTLINING A 10 POINT PROGRAM TO, IN HIS WORDS, "...ENSURE THAT WE ARE NOT PLAGUED WITH PRICING ABUSES IN THE FUTURE..." I'LL NOT DETAIL EACH OF THE 10 POINTS, BUT LET ME HIGHLIGHT A FEW.

WE SHOULD OFFER INCENTIVES TO INCREASE COMPETITION AND REWARD EMPLOYEES WHO RIGOROUSLY PURSUE COST SAVINGS. THE AIR FORCE'S RECENT $1100 BONUS TO AN AIR FORCE SERGEANT WHO UNCOVERED AND REPORTED THE EXCESSIVE PRICE ON A SPARE PART IS A PERFECT EXAMPLE. ON THE OTHER SIDE OF THE COIN, WE SHOULD DISCIPLINE EMPLOYEES INCLUDING REPRIMAND, DEMOTION, AND EVEN DISMISSAL, IF THEY ARE FOUND NEGLIGENT IN IMPLEMENTING OUR PROCEDURES.

WE MUST OBTAIN REFUNDS WHERE WE HAVE BEEN OVERCHARGED. IN MANY CASES, WE HAVE LEGAL RIGHTS TO RECOVER PAYMENTS OF EXCESSIVE CHARGES AND WE SHOULD EXERCISE THOSE RIGHTS. EVEN WHERE WE DO NOT HAVE THE LEGAL RIGHT TO A REFUND BECAUSE OF CONTRACTUAL LANGUAGE, WE HAVE HAD SUCCESS THROUGH STRESSING WITH SENIOR MANAGERS THAT VOLUNTARY REFUNDS OF EXORBITANT PRICES ARE IN THE BEST INTERESTS OF BOTH THE DEPARTMENT OF DEFENSE AND THE DEFENSE INDUSTRY. THE DAR COUNCIL IS PRESENTLY CONSIDERING A DEVIATION WHICH WOULD PERMIT SOLICITATION OF VOLUNTARY REFUNDS WITHOUT PRIOR APPROVAL OF THE SERVICE SECRETARY IN EACH INSTANCE. OUR OWN AUDITS AND INVESTIGATIONS WILL CONTINUE. A NUMBER OF AUDITS ARE CURRENTLY UNDERWAY BY THE INSPECTOR GENERAL. AUDITS AND INVESTIGATIONS ARE NOW FOCUSING ON THE BROAD RAMIFICATIONS OF SPARE PARTS PROCUREMENT INCLUDING NOT ONLY THE PRICES WE PAY BUT ALSO HOW SPARES ARE CONTROLLED AND USED ONCE THEY ARE IN OUR INVENTORY.

THE 10 POINT PROGRAM REPRESENTED AN IMMEDIATE AND FIRM RESPONSE TO PROBLEMS WHICH WERE LARGER AND MORE PERVASIVE THAN WE THOUGHT WHEN WE INITIATED THE INVESTIGATIONS WHICH UNCOVERED THEM. THE PROGRAM WAS PURPOSELY BROAD SCOPED AND SHOWED THIS ADMINISTRATION'S RESOLVE, AGAIN IN SECRETARY WEINBERGER'S WORDS, "....TO ENSURE THAT WE DO NOT WASTE ONE DOLLAR OF THE TAXPAYERS' MONEY."

ON AUGUST 29TH, THE SECRETARY ISSUED A MORE COMPREHENSIVE MEMO THAT REAFFIRMED THE 10 POINT PROGRAM AND WENT ON TO DETAIL SPECIFIC ACTIONS, SOME WITH PRECISE MILESTONE DATES, TO ADDRESS DIFFERENT ASPECTS OF THE SPARE PARTS ACQUISITION PROCESS. AGAIN, I'LL NOT GO THROUGH EACH ACTION, BUT LET ME MENTION SEVERAL.

IT IS NOW MANDATORY THAT THE DOD PARTS CONTROL PROGRAM BE USED ON ALL WEAPON SYSTEM AND EQUIPMENT ACQUISITION. THE PARTS CONTROL PROGRAM PROMOTES USE OF STANDARD PARTS THROUGHOUT A SYSTEM ACQUISITION CYCLE -- FROM ENGINEERING DESIGN THROUGH PRODUCTION AND EVEN INTO MODIFICATION. THIS IS ACCOMPLISHED THROUGH AN ENGINEERING REVIEW OF NONSTANDARD PARTS AND RECOMMENDATIONS OF PREFERRED STANDARD ITEM REPLACEMENTS. ONLY ABOUT 40 PERCENT OF ALL WEAPON SYSTEM CONTRACTS CURRENTLY EMPLOY PARTS CONTROL. SECRETARY WEINBERGER HAS DIRECTED MANDATORY APPLICATION OF THE DOD PARTS CONTROL PROGRAM.

WE THINK THAT INCREASED USE OF PARTS CONTROL WILL NOT ONLY OPTIMIZE THE USE OF STANDARD PARTS WITH THE ATTENDANT ADVANTAGES IN LOGISTICS SUPPORT, BUT WILL ALSO PROMOTE COMPETITION FOR THOSE STANDARD PARTS REDUCING COSTS AND MINIMIZING SOLE SOURCE SITUATIONS.

VALUE ENGINEERING IS A DISCIPLINE WHICH HAS AS ITS OBJECTIVE THE IDENTIFICATION OF MORE COST EFFECTIVE ALTERNATIVE SOLUTIONS. SECRETARY WEINBERGER HAS DIRECTED THAT VALUE ENGINEERING BE EMPLOYED TO INVESTIGATE SITUATIONS WHERE THE COSTS OR PRICES OF SPARE PARTS EXCEED THEIR INTRINSIC VALUE. VALUE ENGINEERS MUST REVIEW SPARES PURCHASES TO REDUCE EXCESSES.

WHERE POSSIBLE, WE MUST ACQUIRE TECHNICAL DATA UNENCUMBERED BY UNNECESSARY PROPRIETARY RESTRICTIONS TO ALLOW FOR COMPETITIVE

PROCUREMENT. ALLOWING APPROPRIATE PROPRIETARY RIGHTS IN DATA IS BENEFICIAL TO EVERYONE CONCERNED. DEFENSE CONTRACTORS WOULD HESITATE TO USE THEIR LATEST TECHNOLOGY IN OUR WEAPON SYSTEMS IF THEY THOUGHT THE COMPETITIVE ADVANTAGE THEY HAD DEVELOPED WOULD BE IN JEOPARDY THROUGH UNRESTRICTED USE OF THE TECHNICAL DATA. BUT PROPRIETARY DATA RESTRICTIONS MUST BE CHALLENGED AND, WHERE APPROPRIATE, THEY MUST BE DELETED.

MUCH OF OUR DATA STORAGE AND RETRIEVAL CAPABILITY IS SERIOUSLY BEHIND THE STATE-OF-THE-ART AND THIS INHIBITS OUR ABILITY TO USE THE DATA WE DO HAVE IN THE MOST EFFICIENT MANNER. WHEN WE HAVE DATA, WE MUST BE ABLE TO RETRIEVE IT WHEN WE NEED IT AND KEEP IT UP-TO-DATE. A NUMBER OF PROGRAMS ARE UNDERWAY FOR AUTOMATING OUR DATA REPOSITORIES TO IMPROVE THIS SITUATION. THE ACCELERATION OF THESE AUTOMATION EFFORTS HAS NOW BEEN DIRECTED BY THE SECRETARY OF DEFENSE.

SPECIFIC CONSIDERATION IS TO BE GIVEN DURING SOURCE SELECTION TO BREAKOUT AND COMPETITIVE PROCUREMENT OF SPARE PARTS. A REVISED REGULATION (DAR SUPPLEMENT NO. 6) DEALING WITH BREAKOUT OF SPARE PARTS WAS RECENTLY ISSUED. IT PROVIDES PROCEDURES FOR SCREENING REQUIREMENTS FOR REPLENISHMENT SPARE PARTS TO BREAK THEM AWAY FROM WEAPON SYSTEMS CONTRACTORS FOR THE PURPOSE OF BUYING THEM COMPETITIVELY OR FROM THE ACTUAL MANUFACTURER. THE SECRETARY DIRECTED IMMEDIATE IMPLEMENTATION OF THIS REGULATION AS A MATTER OF THE HIGHEST PRIORITY.

THE REGULATION SUBSTANTIALLY IMPROVES ON THE PREVIOUS JOINT DIRECTIVE ON BREAKOUT. IT PROVIDES THE FOLLOWING SIGNIFICANT REVISIONS:

- PARTICIPATION BY THE SBA PROCUREMENT CENTER REPRESENTATIVES IN BREAKOUT SCREENING CONFERENCES;
- THE DESIGNATION OF A BREAKOUT MANAGER AT MAJOR BUYING ACTIVITIES TO MONITOR AND FACILITATE THE PROGRAM;
- DELETES DESIGN CONTRACTOR RECOMMENDATIONS AS TO METHOD OF PROCUREMENT;
- THE ACCOMPANYING MILITARY SPECIFICATION REQUIRES DESIGN CONTRACTORS TO PROVIDE TECHNICAL INFORMATION ON SPARES AND IDENTIFY THEIR SUPPLIERS;
- THE PROCUREMENT METHOD CODES LIMITING SOURCES ARE TIME-RESTRICTED;
- PLACES GREATER EMPHASIS ON SCREENING OF PARTS IN ACCORDANCE WITH THE VALUE/QUANTITY OF THE BUYS; AND
- REQUIRES TRANSFER OF REPROCUREMENT TECHNICAL DATA UPON TRANSFER OF ITEM MANAGEMENT.

WE ARE STRONG SUPPORTERS OF SMALL BUSINESS. THE STRENGTH OF OUR INDUSTRIAL BASE IS HIGHLY DEPENDENT ON THE QUALITY PRODUCTS AND SERVICES OF SMALL BUSINESS. THE SMALL BUSINESS INNOVATION DEVELOPMENT ACT OF 1982 IS CLEARLY SUCCESSFUL. FOR FISCAL YEAR 1983, 300 RESEARCH AND DEVELOPMENT TOPICS WERE SELECTED AND WE HAD

2900 PROPOSALS. FOR FISCAL YEAR 1984 WITH ADDITIONAL FUNDS AS REQUIRED BY LAW, 650 TOPICS HAVE BEEN SELECTED. THERE HAS BEEN GREAT INTEREST IN THIS PROGRAM AND WE EXPECT A SIGNIFICANT INCREASE IN PROPOSALS FOR THE 1984 PROGRAM.

AWARDS TO SMALL BUSINESS FIRMS TOTALED $20.1 BILLION IN FISCAL YEAR 1982. AN ADDITIONAL $13.4 BILLION WAS AWARDED BY PRIME CONTRACTORS TO FIRST TIER SMALL BUSINESS SUBCONTRACTORS. IN TERMS OF THE NUMBER OF PRIME CONTRACT ACTIONS, 70 PERCENT OR 7.7 MILLION WERE PLACED WITH SMALL BUSINESS. THE DEPUTY SECRETARY OF DEFENSE IS KEENLY INTERESTED IN PROMOTING SMALL BUSINESS INTERESTS AND CLEARLY RECOGNIZES THE VITALITY THEY CONTRIBUTE TO A HEALTHY DEFENSE BASE.

MR. CHAIRMAN, REGARDING H.R. 2133. I AM SOMEWHAT HANDICAPPED IN PRESENTING OUR VIEWS, SINCE THE DOD REPORT TO THE COMMITTEE ON THIS BILL HAS NOT YET BEEN CONSIDERED BY THE MILITARY DEPARTMENTS AND OTHER DEFENSE AGENCIES OR COORDINATED WITH THE OFFICE OF MANAGEMENT AND BUDGET. HOWEVER, WE OBJECT TO SOME OF THE PROVISIONS IN THE BILL AND I WILL MENTION A COUPLE OF OUR CONCERNS. THE PROVISION (SECTION 8(b)(7)(E)) STATING THAT NO SMALL BUSINESS SHALL BE DENIED THE OPPORTUNITY TO MAKE AN OFFER BECAUSE ITS PRODUCT IS NOT ON A QUALIFIED PRODUCTS LIST (QPL), IS AN UNACCEPTABLE PROVISION. THE SELECTION OF AN ITEM REQUIRING THIS QUALIFICATION IS A TIGHTLY CONTROLLED PROCESS AND PRODUCTS MUST

MEET RIGID CRITERIA TO QUALIFY. THESE CRITERIA RESTRICT THE SELECTION TO THOSE ITEMS WHICH ARE CRITICAL TO RELIABILITY AND TO SAFETY OF PERSONNEL AND EQUIPMENT. THEY MUST BE PRODUCED TO SPECIFIC DESIGN CONSIDERATIONS. OUT OF OUR INVENTORY OF OVER FOUR MILLION ITEMS, THERE ARE ONLY 1,340 SPECIFICATIONS FOR WHICH QPLs ARE AUTHORIZED. THERE ARE AN AVERAGE OF FIVE SUPPLIERS PER QPL AND A NUMBER OF THESE SUPPLIERS ARE SMALL BUSINESSES.

ANOTHER PROVISION THAT WE OBJECT TO IS THE REQUIREMENT WHEN NEGOTIATING SOLE SOURCE FOR THE PURCHASE OF SPARE OR REPLACEMENT PARTS (SECTION 15(b)(3)) FOR CERTIFICATION BY THE HEAD OF THE BUYING ACTIVITY THAT:

- THE PARTS ARE AVAILABLE FROM ONLY ONE SOURCE;
- THE NEED IS URGENT;
- DISCLOSURE OF THE NEED WOULD COMPROMISE NATIONAL SECURITY;
- THE PARTY HAS A LEGITIMATE PROPRIETORY INTEREST; OR
- A STATUTE REQUIRES PROCUREMENT FROM A SPECIFIC SOURCE.

WE ALREADY REQUIRE APPROVAL ABOVE THE LEVEL OF THE CONTRACTING OFFICER FOR A NONCOMPETITIVE ACTION EXCEEDING $25,000. OUR REFORMS IN THE ACQUISITION OF SPARE PARTS WILL INCREASE COMPETITIVE OPPORTUNITIES. THIS PROVISION WOULD REQUIRE VOLUMINOUS PAPERWORK AND CAUSE UNACCEPTABLE DELAYS IN PROCUREMENT. THIS BURDEN WOULD, IN OUR VIEW, EXCEED ANY ASSUMED BENEFIT.

ANOTHER EXAMPLE IS THE PROVISION REQUIRING PRIORITY IN THE AWARD OF CONTRACTS AND SUBCONTRACTS TO AREAS OF UNEMPLOYEMENT. WE ARE OPPOSED TO THIS PROVISION. SUCH A SET-ASIDE WILL REDUCE COMPETITION, INCREASE PRICES FOR DEFENSE SUPPLIES, AND DISCRIMINATE AGAINST SMALL FIRMS NOT LOCATED IN AREAS OF UNEMPLOYMENT.

IN MY VIEW THIS BILL AND OTHERS OF A SIMILAR NATURE, DESPITE HOW WELL INTENTIONED, WILL NOT IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE PROCUREMENT PROCESS BUT HANDICAP AND CONSTRAIN THE PROCESS WITH DELAYS, COSTLY ADMINISTRATIVE BURDENS, AND NEEDLESS PAPERWORK. WE DO NOT BELIEVE THAT SUCH BILLS WILL BENEFIT SMALL BUSINESS IN THE LONG TERM.

Mr. **Bedell**. Thank you very much, Ms. Gilleece.

Mr. Addabbo?

Mr. **Addabbo**. Thank you very much, ma'am, that's a very innovative statement that you gave us that the Defense Department supports small business and I read from prime contract award fiscal year 1982, DOD small business subcontracting program amounts to millions—small business concerns in 1973, received 35 percent; 1974, 38 percent; 1975, 39 percent; 1976, 37 percent; 1977, 39 percent; 1978, 40 percent; 1979, 42 percent; 1980, 42 percent; 1981, 38 percent; 1982, 37 percent.

Percentage of defense prime contracts to small business firms: 1982, 19.7; 1983, 16.5, that really supports small business, Madam Secretary.

Now, you show us on this wonderful chart how much is competed, follow-on competition, 74 percent. What is follow-on competition?

Follow-on competition, you said right here in your testimony top 15 weapon systems, you give us another sheet, OK?

B-1-B, who is competing? Rockwell's the only builder of that. F-16, General Dynamics MX, Chrysler, General Dynamics F-15, McDonnell, who is competing—among themselves. That's 74 percent is sole sourced, you've got 74 percent sole sourced and 6 percent sole sourced, you have 80 percent sole sourced.

Don't tell us you're competing. You're competing nothing. You have $13 billion in spare parts in the 1984 bill, plus another $48 billion in your stock fund. You have $61 billion available and you tell us then how are you going to compete it?

You aren't changing. The Secretary finally in July of this year came up with new directives. The Congress has made these directives since 1968 and with this administration, 1980, 1981, 1982 and yet we read these figures, this waste, and suddenly because we have some good people in Defense who are interested in Defense, who blow the whistle, we now come up with new directives.

In July, the Secretary makes a statement. What happens? A month later, a month later we get directives. Have those directives been finalized? Have they been sent down to DLA? Has DLA changed its policy? Has anyone changed its policy since this new directive finally came out in July 1983 where all this waste and all this money has been going down the drain all these years?

When are you going to start saying, yes, you are serious about saving defense dollars, that you're going to look at waste and fraud and abuse? When are you going to start doing that and not give us great statements of implementation, all kinds of directives which don't get downstairs to the buyer. When do we get there, Ms. Gilleece?

Ms. **Gilleece**. Mr. Addabbo, we are implementing that policy——

Mr. **Addabbo**. What have you done to implement it?

Ms. **Gilleece**. On October 13——

Mr. **Addabbo**. That's October 13; that's next week. July 25, the Secretary made the statement and it takes you 3 months now to make the directive known that all this waste of billions of dollars is going down the drain?

Is that how you implement saving defense dollars and concern about our national defense? That's 3 months after the fact and you guys tell us next week. You're here today appearing before the committee, trying to kill legislation. You don't want legislation. You in the Defense Department, the committee has given you directives over the years. Not you, the administration. You're not the only administration that's been at fault here.

But you don't listen and the only way you're going to listen is by Congress being the safeguard of national defense forcing you to properly spend money for national defense, direct you by legislation. That's the way you're going to do it, not by a hearing because even Secretary Thayer has said the problem has been it never leaves the Pentagon.

The man downstairs who acts on it says, hey, they'll be gone next year, we'll still be here, so we'll do it our way.

I would like to see what happens after October 13. Keep my committee, the Defense Appropriations Committee, and this Small Business Committee informed; give us a copy of those directives and let us know when they go down to the user, the operators.

Ms. GILLEECE. Mr. Addabbo, the memorandum of August was specifically sent to, among other people, the service secretaries. The service secretaries were to implement the specific provisions that required immediate implementation.

On October 13, Mr. Thayer will be meeting with the service secretaries for them to tell him how and what actions they have taken in the last couple of months for that implementation.

Mr. ADDABBO. Then what happens?

Ms. GILLEECE. Mr. Addabbo——

Mr. ADDABBO. Then why——

Ms. GILLEECE [continuing]. We promised to keep on this particular——

Mr. ADDABBO. And someone's going to study it after that. [Laughter.]

Mr. BEDELL. Thank you, Mr. Addabbo. Mr. Addabbo is somewhat concerned with this problem. [Laughter.]

Mr. Bilirakis?

Mr. BILIRAKIS. It is anticlimactic, isn't it? [Laughter.]

Ms. Gilleece, when do we not know when we're going to buy, and when you expanded upon that, you used the M–1 tank as an illustration. I didn't quite jibe with that.

Ms. GILLEECE. The illustration that I used regarding the M–1 is a situation I used in the discussion on competition.

Mr. BILIRAKIS. Well, negotiated competition, I believe you were trying to use that as an illustration, but can you expand upon that now? The M–1 tank is determined, is it not, the state-of-the-art?

Ms. GILLEECE. It is determined who the seller would be at this point. Prior to the determination as to who the seller would be if there was competition.

Mr. BILIRAKIS. Did we, the Government, not have the specifications and drawings and what not in terms of the types of parts, the makeup of it, the quality, the performance required, et cetera, all of these things that go into specifications, and I know a little bit about specifications. I was in Government contracting in the defense industry for many years, Mr. Chairman, and I know a little bit about it.

Wasn't this available? I don't quite understand why the M–1 tank had to go into the negotiated posture.

Ms. **Gilleece**. Let me introduce once again Mr. Gordon who has been in procurement within the Department for many years and he wishes very much to expand upon the specifics.

Mr. **Gordon**. I assure you I was interested in this particular topic.

At the risk of being somewhat tutorial, let me explain briefly.

An advertised procurement is one in which the Government may not conduct any discussions with the competing bidders. It's one in which there is a public opening of the bids and the contract award is made without the benefit of anything other than the contractor's bid as proposed.

Consequently, in order to solicit proposals in a sealed bid advertised procurement, you must be able to describe your requirements in such precise detail that it does not create the possibility for different competitors to be bidding on a different basis. There has to be a common understanding.

You have to be able to precisely describe exactly what it is you want——

That method of procurement which was the preference of Congress did not take into account the complexity of many of our military procurements. Where we are not able to so adequately describe a complicated item as opposed to the commercial item, then there could be confusion and you could not achieve a mutuality, a meeting of the minds when a contracting officer buys without discussion.

So because of the nature of our procurement today, many of our solicitations require a degree of discussion with the contractor. We do not provide them with detailed engineering specifications; we provide them with functional specifications or hybrid specifications.

The fact that we negotiate reflects our need to discuss what we want. It does not equate to the sole source procurement. In fact, most of our negotiated procurements are competitive. That means more, than one firm, often more, has been solicited and has submitted a proposal.

Now, the limitation is basically a reflection of our need to hold discussions with the prospective contractors because we cannot describe with such precision exactly what we want. If you take a B–1, or an M–1, or an MX weapon system, or an aircraft carrier, it's absolutely impossible to write a specification in such precision and detail that you can make an award of a multibillion contract without any clarification, or discussion, or understanding on how the parts should be manufactured.

Mr. **Bilirakis**. All right, sir. That's a fine explanation and I commend you for it. But who determines which people will enter into this competition and do these discussions take place with a group of them sitting together or are they individuals?

Mr. **Gordon**. All procurements are synopsized if they are in excess of $10,000. There is a synopsis.

Mr. **Bilirakis**. What does that mean?

Mr. **Gordon**. That means that they are published. The fact that the Government is soliciting proposals is published in the Commerce Business Daily [CBD]. Even where we are procuring on a sole source basis, we publish it in the CBD to provide for subcontracting opportunities.

Anyone who is a prospective contractor who is interested then solicits from the Government a copy of that proposal. We conduct discussions with all offerors who submit a proposal and evaluate it. We then establish a competitive range.

Those offerors who are in the competitive range are those whose proposals are initially acceptable or are susceptible of being made acceptable. In our major aircraft systems where we buy an F-15, we competed with as many as four contractors and evaluated their proposals.

We had almost 600 people evaluating proposals. We have a formal source selection procedure, and we have a formal source selection plan. We notify the whole world in our source selection plan those criteria which we will evaluate in their relative order of importance.

There are instances where we solicit proposals from only one source. In those instances, there must be a determination in writing with a reason which complies with the statute as to why only one source can be solicited.

Mr. BILIRAKIS. Those are the 17 reasons that I believe——

Mr. GORDON. The 17 reasons apply to the reasons to negotiate in lieu of an advertised sealed bid procurement. Sole source justification is a determination which is made above the level of the contracting officer that there are reasons in addition to negotiation that competition would not be appropriate.

Mr. BILIRAKIS. I am sure that the committee is interested in becoming familiar with the 17 reasons, and probably Mr. Addabbo already is, but I would ask you, sir, what you have explained seems to be applicable to maybe letting out the prime contract for major weapon systems. How about the subcontracting that takes place which might be more available than, say, for the little guy, the small businessman, and let's go on to the spare parts aspects since this is the gist of our hearing here today.

Mr. GORDON. The procedures that I enumerated are acceptable to spare parts purchases other than small purchases which are those under $25,000 in value. With respect to subcontracting by prime contractors where we have competitive procurement, we would hope that the pressure of competition at the prime contract level will induce subcontractors to conduct themselves as reasonable, prudent businessmen and try to achieve an absolute degree of competition.

We also have incentives in our prime contracts to induce contractors to do subcontracting with particular attention to subcontracting to small and disadvantaged concerns.

We do not have any privity of the contractor in the sense that we cannot direct a prime contractor to compete certain subcontracts unless we identify them as being critical. We do, however, have in our larger contracts——

Mr. BILIRAKIS. Why do we not have that privity, sir? Excuse me.

Mr. GORDON. Because there is not a direct legal relationship between a prospective subcontractor to a prime contractor and the Government who is the ultimate customer.

Mr. **Bilirakis**. Why can't we require that prime contractor to open up a bidding type of situation——

Mr. **Gordon**. Most of them do in the initial development but once they go into production and have established a subcontractor structure with vendors who are reliable and reasonably priced, we rely primarily on the pricing matrix of the prime contract to reduce intracompetition.

We do not direct him to disrupt his existing arrangement with vendors to keep changing them which might jeopardize the reliability of the delivered product or the rate at which he's able to produce or how efficiently he's able to produce. Most major contractors, once they have reliable vendors, do not like to switch horses in midstream.

Mr. **Bilirakis**. I can understand that they do not like to do it. But, of course, our big concern here is directly to small business, obviously we're concerned about the expenditure of taxpayers' dollars, too. I understand they do not like to, but I'm not sure that I completely accept that it's an impossibility, that they cannot do it.

Mr. **Gordon**. We do have incentives which try to influence that behavior but we don't have directive authority in that regard.

Mr. **Bilirakis**. But your contract that you let out, there can be in other words, prerequisites, as far as your contract, this is the way you've got to take it, you have got to open up subcontracts.

Mr. **Gordon**. We do have contracts which may be parallel competition to certain subcontracts but not in all instances.

Mr. **Bedell**. Thank you, Mr. Bilirakis. Mr. Britt?

Mr. **Britt**. Thank you, Mr. Chairman.

Congressman Addabbo has tracted some of the figures. It is my understanding that in the spare parts area that the track record is even more dramatic toward small business, although I'm not sure that we have the information to support that.

We have had a lot of areas brought to our attention in the last day which I think are critical to the solution of the overcharging. Let me ask you about some of those. One of the things that was addressed is that the incentives are wrong, there is no incentive.

The buyers are pressured. They are measured by how many buys they're going to make, that kind of thing. You addressed one aspect of that in your proposal.

What am I asking you is, is there any effort to remove the disincentive to chop something out because it takes more time, and also to remove the element of risk that someone who breaks an article out is seen as shaking the boat.

Is there anything that will give more incentives to buyers and others in the process of procurement to compete?

Ms. **Gilleece**. Mr. Britt, the Secretary's memorandum specifically defines incentives and management strategy that should be used to break out the parts for competitive procurement. Balancing that as you suggest with the risk problems that there are is again a management decision.

I might suggest to you that no greater watcher the of taxpayers' money than Admiral Rickover clearly would not allow anyone in his organization and in fact imposed a rule that there would be no parts substitution whatever for nuclear submarines as he found that the risk was too great.

Mr. BRITT. There is a difference between a critical item on a submarine, and a critical item in an engine that is going to endanger safety, and a thermos bottle or a claw hammer, or a little knob on the stool of an aircraft.

Ms. GILLEECE. I understand that, sir. What I am saying to you is that the Admiral at least thought that all of those nuts, bolts, screws and whatever should not be broken out. That was his management decision. Our management directives indicate that you should look at these things and you should look at them with the idea of breaking out.

As indicated, for example, the Air Force is doing substantial examination of parts for purposes of breakout and will admit that they also believe that they need 3,000 more personnel to do exactly what you're suggesting. We are getting requirements from the services that we need more people. With the people, we can accomplish the mission.

Mr. BRITT. What our testimony was yesterday is that a breakout would save not 10 times his salary, but 400 times his or her salary annually. So believe me, we may be adding people, but we are saving money when we do that.

In your testimony, you hit a point that hinges importantly on this process. You mentioned the parts control program, and mostly the use of standard parts throughout a system acquisition assignment.

One of the abuses that we find is that in engineering spare parts, instead of going to a standard parts manual that is there, with the standard screws, the standard flanges, that are all there, special parts are designed. As I understand the F-16, there has been a concentrated effort not to go in and engineer some special new screw because it is going to mean more money by providing that for years and years, but to go to that standard manual, and use the DOA standard parts.

You built the F-16 that way. It is fungible with the NATO allies. And it is a very important development.

In the spare parts area, the opposite has happened. We have seen these thngs engineered. It is a lucrative gravy train. In many instances, there may be a change by the OEM labor through this program called the value engineering change proposals. They will say, hey, here is an item, why do we not change back to these standard parts.

They get a bonus for having done it, but it has been intended all along. What I am saying is why can we not build things where possible out of the standard parts manual using the standard parts?

Ms. GILLEECE. That is what the directive indicates, sir.

Mr. BRITT. How are you going to implement that? How are we going to know that as in 1968, when reforms were instituted and everything was going to go forward from there, and now it is 1983 and the same abuses exist; how do we know that there is going to be a genuine effort to use them?

Ms. GILLEECE. It will be put in the contract as a specification that requires it. As I am sure that you are aware, we will make sure that the services do implement this policy directive.

Mr. BRITT. Well, there is another part of that, just the paperwork involved in sending out those bids. If you have got a standard parts list, you can take one piece of paper. If you have got a separate drawing and spec for every single little part, there is a tremendous amount of expense in that.

Mr. **Bedell**. If the Chairman would interrupt a minute. I do not want to break things off too quickly, but we should know that apparently Ms. Gilleece has to make a speech, and she has to catch an airplane at a quarter to 1. I do not want to cut the gentleman off, but I think we are going to have to limit everybody to 5 minutes.

If you have got something important to bring up, Mr. Britt, go ahead. But we are trying to get you out of here by 5 after, if we possibly can.

Ms. **Gilleece**. Thank you very much.

Mr. **Britt**. Only one quick point. The value engineering change proposals by testimony yesterday offer a real opportunity for improving this process in using standard parts. At the present time, if you do not manufacture the parts, you cannot offer a value engineering code proposal. This proposal has to be examined.

Thank you, Mr. Chairman.

Mr. **Bedell**. Mr. Schaefer?

Mr. **Schaefer**. Thank you Mr. Chairman.

Ms. Gilleece, I have before me a copy of the DOD prime contract awards, the 17 areas that we have been talking about. Here in 10 areas, where practical, we try to secure competition by formal advertising. It was 29 percent in 1971, and it goes up to 33 percent in 1982, and it varies in between that for that period of time.

Can you tell me what it is out there that you do not advertise for competitive bidding that would make up this amount of percent of the total budget?

Mr. **Gordon**. I think the principal answer would be that we had a lack of right to bear because we did not pay for the development of that data.

Indeed, where the contractor has patent and other rights, it would be where we cannot adequately describe the items so as to facilitate fair and competitive bidding. It would be instances where under exemption 10, where we have only performance specifications, and consequently we could not insure that the receipt of the part would be interchangeable in whole or in part with like products in the supply system which would result in problems in the logistical support of readiness.

Basically, and I would like to speak in very lay terms, when you have an item and you want to compete it, and you want to write an engineering package that would let somebody else bid on it, you have two problems. It is easy to get a package which describes what you want in general terms. However, it is more difficult to get a package which would let somebody else manufacture it. If you do not know who that somebody else is, you have to take a worst case scenario.

That means that it is very time consuming, and it is very difficult to put together a reprocurement data package which is so precise and so complete that the Government can indemnify the new manfacturer that if he follows it that it will work, and he will not be liable for a defective part.

We are purchasing approximately 7,000 parts a month to our Federal stock system. We have 4.1 million parts in our Federal stock system.

Mr. **Schaefer**. How many of those do you need?

Mr. **Gordon**. Well, as we get more complicated systems, they have more parts, and they have to be supported and sustained. Our problem is the sheer volume. None of these data package repositories are automated. So in order to decide if a spare part can be procured competitively, you first have to ask yourself, even if you agree, let's get the reprocurement data package. Is it current, is it complete, is it adequate, can somebody rely upon it to do the job. Then you have got to find a source from which to procure it.

As was mentioned earlier, these are very labor intensive methods. If we started to correct the problem, we estimate it will take us 20 years to go through all of the parts and all of the data that we have to do it for each and every one.

Mr. **Schaefer**. It just seems to me that this is a rather high percentage of the total issue that we are looking at.

Mr. **Gordon**. You are looking in terms of dollars, sir. Usually those that are negotiated, unfortunately, are the bigger dollar items. Because the bigger dollar items are the more complicated and technically more difficult.

If you look at the numbers of actions, our competition statistics are much better than they appear as when you look at dollar values. If somebody could find a competitor for the B-1 after your introduction, then it would be cost effective to introduce at this point in time, and they would be happy to compete.

But once you commit yourself to a manufacturer of a system like the B-1, then it is not possible to get a competitor to compete.

Mr. **Schaefer**. To go along with what the chairman said, I am going to hold mine to 5 minutes, but one quick question here.

It seems that on the Small Business Innovation Act of 1982, you indicated in your statement here you are a strong supporter of small business, et cetera. I was not here at the time, but the information has been brought to me that DOD actually resisted this in the beginning, and a number of times certainly you did not want to become involved with small business. Now all of a sudden, you are back here now saying that they are such strong supporters.

Ms. **Gilleece**. No, sir. At that time, the department had a program called the DESAT program, the defense small business advanced technology program. The legislation as introduced and as we testified on did not follow that program. DESAT was an established program.

What we wanted to do was continue that program. Since then, the SBIR program has refocused, and is very much similar to the DESAT program.

Mr. **Bedell**. If the gentleman would yield. Let's not mince words. The Defense Department clearly opposed that legislation. It was the lady who opposed that legislation, as I understand it, in her position, but that is beside the point. Let's not mince words. The Department did oppose it.

Does the Department now support it, so that there will be no effort by the Department to oppose it if it comes up again for consideration?

Ms. **Gilleece**. Mr. Chairman, I believe that is permanent legislation.

Mr. **Bedell**. Yes, and there have been efforts to try and cut it back. The gentlelady's testimony indicates support for it. I think that the question that I would ask, and I presume that the gentleman would like to know, is whether your support indicates that we can expect the Department of Defense not to try to cut the program in the future or to see it eliminated?

Mr. **Schaefer**. Mr. Chairman, I appreciate that. I saw a little bit of conflict here, and I just wanted to clarify it.

Ms. **Gilleece**. I was not in this position at that time. Ms. Leftwich was, and I have asked her to comment on this situation.

Ms. **Leftwich**. The Department clearly had some concerns at the time about the mandated percentages.

Mr. **Bedell**. Our question is do they support it now?

Ms. **Leftwich**. Absolutely.

Mr. **Bedell**. And we have your assurance that they will not oppose it?

Ms. **Leftwich**. That is correct.

Mr. **Bedell**. Thank you.

Mr. **Schaefer**. Thank you, Mr. Chairman.

Mr. **Bedell**. Mr. Ireland?

Mr. **Ireland**. Thank you, Mr. Chairman.

Under which of those seventeen exceptions did the flat washer come under?

Mr. **Gordon**. I do not know.

Mr. **Ireland**. But it had to be under one, is that correct?

Mr. **Gordon**. No, sir. It would be a small purchase which would make it fall under exception 3, and small purchases under $25,000——

Mr. **Ireland**. It was to be higher.

Mr. **Gordon**. Had to be formal competition.

Mr. **Ireland**. OK, and there was not formal competition?

Mr. **Gordon**. I do not know, sir.

Mr. **Ireland**. Would you be kind enough to furnish that information?

Mr. **Gordon**. Yes

[This information was not provided by DOD.]

Mr. **Ireland**. Thank you. In addition to that, we had some testimony from Mr. Amlie about the cost per hour of industrial costs in competitive operations industrial wise larger or smaller businesses. He was talking in the area of $25 or $35 per hour. Yet the sole source bids that you neogitate, whether it is "competitive negotiation" or just negotiation, they are finding the low is $99 an hour all the way up to $3,000 an hour. My question is, in this so-called competitive negotiation that goes on, do you consider those costs, yes or no?

Mr. **Gordon**. Yes, we do.

Mr. **Bedell**. You do. I understand from Mr. Amlie's testimony that they were just now discovering the value of most of these negotiations. Is it near the $99 or nearer the $3,000 in the contracts you have dwelt with?

Mr. **Gordon**. I do not really feel that I can answer, because I do not know.

Mr. **Ireland**. You just told me that you were considering it.

Mr. **Gordon**. What I am saying is that in negotiating procurements, and we have usually ordered the systems, we consider the reasonableness of the contractor's prices, the allocation of his costs, and we rely upon one of the systems. I do not know the basis for Mr. Amlie's information.

Mr. **Ireland**. But you just told me that you considered those figures of industrial costs per hour. Now do you consider them or do you not consider them; and if you do consider them just tell me the range in which you find that your are dealing

Mr. **Gordon**. I would have to provide that for the record.

[This information was not provided by DOD.]

Mr. **Ireland**. Thank you if you would.

Now I have a question for Ms. Leftwich.

Do you deal in your capacity helping small business frequently with Mr. Amlie?

Ms. **Leftwich**. Mr. Amlie and I have never met.

Mr. **Ireland**. You have never met.

Have you met any of the people that are in similar positions within the Defense Department with Mr. Amlie?

Ms. **Leftwich**. No, sir.

Mr. **Ireland**. We just talked today earlier in the testimony about private citizens being involved in false claims.

Do you think that incentives to get private citizens into false claims as it was from 1863 to 1943 is a good way of finding out whether there is fraud and bringing about a cleaner and a more economic operation?

Ms. **Leftwich**. I do not think I can answer it. It is not an issue that has come before us.

Mr. **Ireland**. You do not think that private citizens should have the opportunity?

Ms. **Leftwich**. Private citizens should have every opportunity as anybody else should to report fraud and abuse.

Mr. **Ireland**. Do you think that they should be rewarded when it is?

Ms. **Leftwich**. I do not know. I just cannot honestly answer that. Why should they be rewarded? Maybe that is a moral obligation.

Mr. **Ireland**. Should it be a moral obligation within the Defense Department?

Ms. **Leftwich**. I would think so.

Mr. **Ireland**. It does not seem to me that with all the characterization of the problems of whistleblowers that it is very prevalent, do you think so?

Ms. **Leftwich**. I do not know.

Mr. **Ireland**. One last question, Mr. Chairman.

Ms. Gilleece, Mr. Addabbo made a strong case for the fact that the Congress has continually asked for change and pointed out problems to Defense Department over the years.

Mr. Amlie gave us some ideas of why he thinks that it has not worked despite that directive from the Congress.

Would you tell us the principal reason why—well, first of all, tell us if you think that Congressman Addabbo is on target, and then tell us why since we have had no results, what is the principal reason we have not had results?

Ms. **Gilleece**. Mr. Ireland, we have 13 million procurement actions per year. For the most part, we have an excellent procurement community, and we do our job very well.

Mr. **Ireland**. I do not need an advertisement, I just want to know your considered opinion on why it has not worked. I am talking about a period of time from 1968 to now.

Ms. **Gilleece**. We daily focus our management attention toward improving that program, and we will continue to do so.

Mr. **Ireland**. Why has it not worked is my question, one more time. You have no opinion as to why it has not worked. Mr. Amlie gave an opinion as to why it has not worked?

What is your opinion as to why it has not worked?

Ms. **Gilleece**. Mr. Ireland, I can revert and focus on the Secretary's memorandum which specifically defines the individual problem.

Mr. **Ireland**. I am not asking what you are doing. I am asking you why you think it has not worked. In all due respect, why has it not worked? You have no idea why it has not worked?

Ms. **Gilleece**. No, sir, you are asking me to give you one answer. I do not believe that it is a one answer question.

Mr. **Ireland**. I am asking for the most important reason. Mr. Amlie said it was a lack of incentive. You have no reason why you think that it has not worked?

Ms. **Gilleece**. I do not know any prime reason that I could give you. I could give you a number of reasons why there are specific problems.

Mr. **Bedell**. Thank you. Mr. Boehlert?

Mr. **Boehlert**. Thank you, Mr. Chairman.

At the risk of being considered overdramatic, let me turn to your statement.

Mr. **Bedell**. Let me interrupt. After Mr. Addabbo, you do not have to worry about that. [Laughter.]

Mr. **Boehlert**. Mr. Addabbo addressed it? [Laughter.]

For the life of me, I cannot understand why DOD is so adamant in its opposition to set-aside contracts in areas of high employment. Your statement refers to areas of unemployment. There is not an area in the country right now that does not have unemployment. There are a number of areas that have excessively high unemployment, including about 10 million Americans out there.

For the life of me, I do not understand why we cannot put aside somewhere to target contracts to areas of high unemployment, so Americans who want to work can have some jobs.

Your statement says the set-asides would reduce competition and increase prices. I would like to know how in your experience it has reduced competition and increased prices?

Ms. **Gilleece**. Sir, there is an ongoing test, as I am sure that you are aware at the Defense Logistics Agency. The LSA program continues on this year by legislation, and it allows for a 2.2 percent differential to be paid to place awards in a labor surplus area, and up to a certain amount of money. The past reports of that test have to date indicated that it has cost the Government much more money than prior to the initiation of that test.

Mr. **Boehlert**. Let me interrupt here. The figures that I have provided by the Department are the differential on $90 million worth of contracts is $1,763,173. That is a differential of about 2 percent, and that is creating 3,207 jobs at a cost per job of $599.89. You cannot even buy a claw hammer for that. [Laughter.]

It is working as intended. Why are you so adamant in opposition to it? And let me tell you about reducing competition. There were 90,000 bankruptcies in America last year. That is reducing competition. Do you know where those bankruptcies came? In areas of high unemployment.

One of the reasons that these companies are going under is they cannot get contracts, and the doors have been closed at DOD, the biggest purchaser of goods and services in the world.

Ms. **Leftwich.** I just have some interesting statistics for you, sir. You talk about awards to labor surplus areas. Thirty-five percent of our awards are made to labor surplus areas without benefit of preference.

Mr. **Boehlert.** We are assuming labor surplus areas. Of course, that is obvious. I am surprised that it is not 50 percent. But there is no conscious effort on your part to charter contracts despite what the Congress has repeatedly said to you about areas of high unemployment. That is the biggest single problem we have in America today, high unemployment. You can help us do something about it at a very minimal cost.

Mr. **Gordon.** If I may comment, sir. At the same time, the report also indicates that we eliminated that many plus 30 additional jobs in areas that were not labor surplus as a result of the test. So I guess I could say it is close to $27,000 apiece to eliminate 128 jobs.

Mr. **Boehlert.** I would love to have those figures. You eliminated 30 jobs, but you created 3,207.

Mr. **Gordon.** We eliminated in nonsurplus areas 128 jobs, and we created jobs in surplus areas, that is, while we were gaining 3,207 jobs in labor surplus areas, we were losing 3,335 jobs in nonlabor areas.

Mr. **Boehlert.** I would love to see those figures and that documentation.

Mr. **Gordon.** And there was an administrative cost of $1.7 million to the Government which was not included in your figure. So it cost us $27,085 to eliminate each of those 128 jobs.

Mr. **Boehlert.** Let me tell you something. I will challenge those figures, I would love to have them. We cannot even get a meeting to discuss the subject.

Ms. **Gilleece.** Sir, let me mention that we will provide to the subcommittee the reports of the Defense Logistics Agency test. Furthermore, there is a meeting that Norma and I will attend on October 18 with the Northeast-Midwest Coalition, and we will be accompanied by people, including General Connolly from the Defense Logistics Agency, to discuss entirely this particular matter.

Mr. **Boehlert.** That is good. The meeting is long overdue. I have met with Secretary Weinberger on this very subject and he seems to be coming around. I hope it filters down. Thank you.

Mr. **Bedell.** Thank you, gentlemen. We are very anxious to get you out of here, so you can make your speech, Ms. Gilleece. I have a feeling that your next audience will be somewhat more receptive.

If I can summarize very quickly what I think I understand your testimony to be. Your testimony really is that, in your opinion, the system is working quite well right now, and that you are making changes that you believe are bringing improvements.

Ms. **Gilleece**. That is true, and if I may just broaden that for a moment, that is to define the fact that when we purchase spare parts, in the past we have been ultimately concerned about support and readiness which may be an answer to the question that you asked, that maybe we focus too much attention on support and readiness. I am not sure, however, how much is too much. But we have certainly put in some management attention.

Mr. **Bedell**. Excuse me, talk as long as you want to, but I do not want you to miss your airplane.

Ms. **Gilleece**. But let me just mention that we are focusing our efforts on the procurement process right now. We will have to incorporate into that the readiness and support concern.

Mr. **Bedell**. This is the impression that I have. I will just call your attention to this publication which your Department put out, the Director of Inspection Operation Report, Pentagon, Wash., D.C. If you look at that, you'll see according to the figures that in 1979, the parts that were formally advertised for competitive bid were 7.9 percent. In 1980, they were 7.6 percent. In 1981, they were 7.3 percent, and in 1982, 6.7 percent.

Just so you know, that is the record that you think is very good, and I have to tell you that the subcommittee, at least the chairman of the subcommittee, does not agree that that is a good record. Because if we continue at that rate, we are headed right back toward zero.

You further said that you thought that the parts control program is a great program and I think that is a Defense Logistics Agency program, is it not?

Ms. **Gilleece**. Yes, it is.

Mr. **Bedell**. Yes. Just so you know, the previous witness said that was simply a blunder.

Ms. **Gilleece**. I understand.

Mr. **Bedell**. Under those circumstances, we certainly are having a tremendous cost overrun. You talk about value engineering. At least according to the testimony that we had yesterday, talking with the gentleman who testified, he indicated that the only people that can qualify to make value engineering proposals are those people who have contracts. Is that correct?

Ms. **Gilleece**. Those are value engineering change proposals. The value engineers are Government people.

Mr. **Bedell**. I understand, but I cannot imagine that anyone would be so crazy as to say that the only people that can recommend a change is the people that are already selling us something. I cannot understand, that if I had a better idea why they would exclude me from coming in and telling you that I have got a better idea, and I can sell you this product.

Is there some reason why you are limiting this to people that already have contracts?

Ms. **Gilleece**. Any contractor has the right to submit to the Government an unsolicited proposal.

Mr. **Bedell**. No, no, value engineering.

Ms. **Gilleece**. I understand that, sir. A value engineering change proposal is a proposal to the contract.

Mr. **Bedell**. Sure, to make a change to the contract.

Ms. **Gilleece**. I understand that. But any contractor, if he has a better idea of how something should be made or what improvements he could make to a system, can submit through an unsolicited proposal and have it evaluated.

Mr. **Bedell**. Value engineering. Can I go in and make a recommendation then that you change the item, or go to your value engineering department that it should be changed?

Ms. **Gilleece**. Yes, sir, and instead of being called a value engineering change proposal, it will be called an unsolicited proposal.

Mr. **Britt**. Is there not some benefit in the value engineering change proposals to present manufacturers of a product for submitting a successful change that would not be available to someone on the outside who has to put in much time and effort with no possible reward?

Ms. **Gilleece**. A modification to the contract, sir.

Mr. **Britt**. But there is an incentive under the value engineering change proposal to submit those and there is an award, if you are successful, that is only available to those who are presently manufacturing that article for the Government?

Ms. **Gilleece**. Let me answer both ways. A value engineering change proposal results if accepted a modification to the contract, which is good for the contractor, and good for the Government. An unsolicited proposal if accepted by the Government results in the award of a contract.

Mr. **Britt**. Is there not some financial incentive in the value engineering change proposal that is not available to someone not manufacturing the product?

Ms. **Gilleece**. Sir, I hate to disagree with you, but I shall. Because the award of a contract is an award, and it is the result of an unsolicited proposal from a contractor, I would presume.

Mr. **Britt**. Could you give me one single example. I would like this for the record, of someone coming in unsolicited and obtaining a contract under those circumstances?

Mr. **Bedell**. We would like to have that for the record, if you would send that for the record?

[This information was not provided by DOD.]

Mr. **Bedell**. I have a problem with one of your statements:

> I am somewhat handicapped in presenting our views, since the DOD report to the committee on the bill has not yet been considered by the military departments and other defense agencies or coordinated with the Office of Management and Budget.

It was on June 13, Ms. Gilleece, that we sent a letter which read,

> We would appreciate it if you would furnish the committee with a report on the proposed legislation together with such comments as you may desire to make.

That was addressed to Casper Weinberger June 13, and you have not had time yet to consider it apparently. I do not think that is a very good excuse.

Ms. **Gilleece**. My office has clearly commented to the General Counsel's Office on that legislation. They solicited comments from the military departments. We take our comments on legislation very seriously.

Mr. **Bedell**. You must. If we asked for them on June 13 and it comes October, you take them so seriously that you do not let us know by October what you think about that. You must take them terribly seriously. We never have that with any other agency, Ms. Gilleece, you surely know that.

It appears that you're not taking this as seriously as I am. We are going to take it seriously, and I want you to know that we are not just going to sit here and have hearings, and have the same things go on where we have seen the competitive bids continue to decline, and have somebody come in from the Department and say, "Everything is going great. We are doing everything the way it ought to be. Do not be disturbed, do not pass legislation, just let us go along as we have been doing."

If we do that, I think Mr. Bilirakis and Mr. Boehlert and others will have every right to criticize what Congress has been doing just like it has been doing in the past. And I think that we need to let you know that we are going to move forward to try to correct the situation.

We would welcome your help, if you want to help us. If you want to fight us, that is up to you. But we believe the taxpayers are entitled to not have to pay the prices that they have been paying for claw hammers, and plastic knobs, and washers, and all this sort of thing as well.

As long as the system is working the way your report shows it is working, and as long as we have got documentation that this has been for a long time, I believe, and I am speaking as the chairman of the subcommittee, I believe this subcommittee is going to go forward and do something about it. We welcome your cooperation, if you want to cooperate and work with us.

If what you are going to tell us is, do not do anything, everything is going great, do not be disturbed, I do not believe that we are going to work very well together. I hope that you can make your plane now. You have got 35 minutes to make your plane. Thank you.

Mr. BEDELL. We will now call the next group which consists of Derek Vander Schaaf, Deputy Inspector General, Department of Defense; Maj. Gen. Harry Falls, Deputy Inspector General, U.S. Air Force; Maj. Gen. Robert B. Solomon, Deputy Inspector General, Department of the Army, and Capt. Donald Martin, Deputy Inspector General, Department of the Navy.

For the information of the others who are waiting to testify, I think that it will be the plan of the subcommittee, unless there is objection, and we will check with those who are still planning to testify, that if we were to break after this, we would come back at 1:30 for the balance of the two groups we have left.

Does that present a serious problem for any of the people that are waiting to testify; would you raise your hand if it does?

[No response.]

All right, our temporary plans will be to come back at 1:30.

Mr. Derek Vander Schaaf, will you be the first one to testify?

Mr. VANDER SCHAAF. I would proceed with my statement, Mr. Chairman. I do not have that long of a statement but I will try to be brief.

[The witness was sworn.]

Mr. **Bedell.** It would be helpful if each of you would identify yourselves to the reporter before you start, Mr. Vander Schaaf.

TESTIMONY OF DEREK J. VANDER SCHAAF, DEPUTY INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Mr. **Vander Schaaf.** Mr. Chairman, I am pleased to be here this morning to discuss in general terms the subject of obstacles faced by small businesses who wish to do business with the Department of Defense, and particularly to address your bill, H.R. 2133, to amend the Small Business Act.

Other witnesses appearing before you today will address particular initiatives used by the military services to assure that small businesses enjoy a significant share of the Department's procurement expenditures. Included in this category are such programs as spare parts breakout and the competition advocate program.

Accompanying me today are representatives of each of the Military Inspector General Offices. I want to emphasize that unlike the DOD Inspector General, the Military Service Inspectors General are not specifically charged with overseeing the operation of the acquisition process or in commenting on legislation and regulations relating to that process.

Rather, they have general inspection and investigative authority under which they perform periodic inspections of organizations and activities purchasing goods and services at all levels within their service. They also investigate improprieties when they are found during the inspection process or when reported by others.

I understand that you are particularly interested in the procurement of spare parts and how small businesses fit into this procurement function. Thus, I will confine my remarks to audits covering spare parts procurement and practices, and briefly comment on H.R. 2133.

As you know, my office has recently completed audits of various aspects of the spare parts procurement process, and on the purchase of spare parts for specific weapon systems. We have also begun a DOD-wide audit of spare parts pricing. The objectives of the audit are to quantify the extent that unreasonable prices are being paid, identify the practices that have led to these conditions, and determine if further changes in policies and procedures are needed to achieve economical acquisitions. We are concentrating on the major contractors who provide the largest dollar volume of spare parts to the Department. The pricing audit should be completed next spring. We have eleven other spare parts audits in process.

The problem associated with the procurement of spare parts are not limited to small businesses, but rather they affect the entire procurement process. Our audits have identified various situations that contribute to the problem of high costs of spare parts. For example, inadequate technical data that unnecessarily constraints competitive procurement actions, failure to challenge proprietary data rights, cases where DOD had adequate technical data but failed to seek competitive procurement, because it was easier, quicker, and less risky to buy sole source; parts bought at high prices from end item manufacturers, even though the same parts were available in the Federal Supply System at substantially lower cost; and in general the "clericalization" of the procurement process. Also, buyers were often unable to determine if prices for spare parts were reasonable, because they were unfamiliar with the item being purchased, and could not or did not compare price with item complexity.

On the plus side, our audits show that the Department has done a number of things right. For example, in May 1983, we issued two quick reaction reports criticizing the Navy for not obtaining spare parts through the Federal Supply System. In an attempt to determine how widespread the problem was, we expanded the scope of the audit to include the other services. We found that the Army and Air Force were obtaining items with national stock numbers through the Federal Supply System when it was advantageous to do so. We also found that the Navy had in fact used the supply system for another program. We are now doing additional analyses of the two Navy programs, AV-8B and the Trident, and plan to issue a draft report shortly.

Let me now turn to what I believe are some of the causes of the high spare parts costs. I believe the problems are related to the way the Department conducts its business and to questionable pricing practices of some of our suppliers.

In the past, we have not made all of our procurement and inventory management personnel sufficiently price conscious. Attention has focused on ordering the spares and getting them delivered quickly to maintain readiness without sufficiently considering the reasonableness of cost.

Procurement personnel often go through a clerical process giving little thought to price comparison with previous buys or attempting to analyze what the item should cost based upon its material content, manufacturing technique, et cetera.

Some basic ordering agreements allow contractors to set or redetermine the price at time of delivery, which may be long after an order was placed. This allows the contractor to establish a price based on actual cost incurred, thus removing contractor risk and the incentive to control costs in the marketplace. Frequently, the final price is many times greater than the price originally quoted.

Some supply and procurement officials have been reluctant to seek competition because it is deemed faster, easier, and safer for them to buy sole source. Supply and procurement officials often feel comfortable when they buy spares from the end item manufacturers. If a critical item fails, the end item manufacturer must be at fault. However, if a procurement official decided to obtain the part from some other contractor, his judgment may be questioned.

DOD has not made adequate system reviews of contractors' operations. Far too frequently contractors from whom DOD purchases spare parts do not manufacture the items. Rather, they purchase the item from another company, which may have purchased the item from yet another company and so on. Each contractor adds handling costs, plus overhead and profit to the price.

We have not adequately challenged proprietary data rights on parts that are many years old or where there is some doubt if the manufacturing process is truly proprietary.

Finally, we have found that the true extent to which DOD obtains competition on its spare part procurements has been obscured. Procurements identified as competitive may not have been competitive because the only competition was between the prime and his vendor or licensee.

There are no easy solutions to these problems. We have to change attitudes and let both the responsible Government officials and the contractors know that it is no longer business as usual.

One of the first things Secretary Weinberger did on becoming Secretary of Defense was to order a general examination of the entire acquisition process. This led to the 32 initiatives designed to improve the process. When the Secretary became fully aware of the problems in spare parts procurement, he took specific and decisive action by directing major changes in the way DOD orders and purchases spare parts. This was done through a policy memorandum issued on July 25, 1983 and detailed action plan issued on August 29, 1983.

Mr. Chairman, you must recognize that the procurement problems I discussed here today represent only a small part of a very large and complex system. DOD processes millions of contractual actions each year, manages millions of line items in its inventory, and spends billions of dollars for spares annually. Defense procurement regulations and procedures are very complex and we have a lot of dedicated hard working people who are trying to make the system work. We must relentlessly identify and correct standard weaknesses.

We must also place responsibility for lack of appropriate management attention on cost and competition directly on the individuals involved.

I would like now to briefly discuss the bill H.R. 2133. The objective of the bill is to increase the opportunity for small businesses to participate in the procurement process. While the Office of the Inspector General supports efforts designed to enhance the participation of small business in defense activities, we are not convinced that the bill as currently drafted would have the intended effect of enhancing competition and insuring increased small business participation in DOD contract awards.

The bill would amend the Small Business Act to provide that no small business could be denied the opportunity to have its bid considered solely because it was not on a qualified bidders list, did not have its product on the qualified products list, or had not received prior approval from a Federal agency to submit and have considered its offers relating to a certain type of work or class of contracts. Efficient, economical, and responsive procurement requires contracting officers to use techniques such as qualified bidders lists or products lists as aids to making procurement decisions. I do not believe that such lists should be summarily outlawed, even though such lists have on occasion been abused.

The proposed legislation would also require small business bids always to be considered without regard for any unusual or compelling procurement circumstances and with little opportunity for the exercise of judgment at any level of procurement management. Since the standards for qualified bidders and qualified products are established to benefit the Government, usually in areas requiring special technical skill or quality control, their elimination could delay procurement of such items, result in the delivery of defective products and hamper effective procurement.

These lists also serve to protect small businesses. If a business is not required to meet these special qualifications prior to beginning work, it could fail in its efforts to provide an acceptable product, resulting in default and ultimate insolvency of the business. Obviously, the delivery of defective or substandard products could have a disastrous impact on the development or production of a weapon system. The consequences of default, although perhaps not as apparent as delivery of defective equipment, can also be damaging or fatal to the small business involved.

We have witnessed numerous cases where default has occurred under present contracting procedures. The bill could exacerbate this problem by encouraging awards to firms that are not in fact able to perform.

The bill would add a new subsection to the act which would require the head of each procurement activity to justify each sole source purchase of spare parts in terms of one of five stated statutory bases. It is neither necessary nor desirable to legislate a special sole source standard for spare parts in the Small Business Act when such a standard would apply to businesses of all sizes and is already required by the Defense Acquisition Regulation.

Improvements already under way in the DOD spare parts breakout program should significantly increase the number of small businesses participating in the spare parts arena. We expect that trend to continue as the military buying centers reduce their dependency on sole source prime contractors for supplying spare parts in compliance with the Secretary's directive. My office will followup to insure that these new policies are implemented.

While the goals of the proposed legislation is laudable, a better way to achieve the goal must be found. Without doubt, the use of bidders lists and product qualification requirements have been on occasion used to stymie competition. I have heard the statement made that "It will take months to qualify your firm or product, in the meantime we must get on with the procurement," or "If the prime contractor certifies your product you can bid. Otherwise you will have to go through a detailed certification process." This latter example effectively allows a prime contractor to determine who will be allowed to compete against him.

Despite these shortcomings, superimposing more detailed regulations on a procurement system that is already straining under the weight of existing regulations is not the answer. We simply need to make our buyers more price and quality conscious, while reducing the tendency to automatically go to the vendor of record without actively seeking out alternative suppliers. The competition advocate program which has recently been instituted at each buying command and procurement center should be given an opportunity to work in a systematic way before further action is taken on H.R. 2133.

Mr. Chairman, that concludes my statement. I would be happy to answer any questions, unless you first desire to hear from representatives of the services' Inspectors General offices.

Mr. BEDELL. Yes; I think we would prefer to hear from everybody that has a statement. Who's next here?

TESTIMONY OF MAJ. GEN. ROBERT B. SOLOMON, DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS, ASSISTANCE, TRAINING, AND INFORMATION MANAGEMENT, DEPARTMENT OF THE ARMY, DOD

General SOLOMON. I am Maj. Gen. Robert B. Solomon, the Deputy Inspector General for Investigations, Assistance, Training and Information Management, Department of the Army.

Mr. Chairman, thank you for the opportunity to participate in these discussions. I propose to discuss the role of the Inspector General of the Army, and summarize the experience of that office with regard to small business and procurement problems.

The Inspector General of the Army is a confidential representative of the Secretary of the Army and the Chief of Staff of the Army. Sections 3039 and 3040, title 10, United States Code, provide for and describe the mission of the Inspector General, which is to assess and report on matters affecting mission performance and the state of the economy, efficiency, morale, esprit de corps, and readiness of that service.

Other Inspectors General, as confidential representatives of and members of the personal staff of their respective commanders, have similar missions. Inspectors General accomplish their mission by performing general and special inspections of their respective organizations and functions, by assisting individual members of the Army who have specific grievances or complaints, and by conducting investigations of allegations of noncriminal improprieties, or wrongdoing on the part of Army members.

More specifically, Inspector General investigations are conducted into areas in which questions arise about violation of the rights of an individual, or into operational or administrative systems which fail to prevent, detect, or correct violations of law or regulations.

It is this last area that has in recent years prompted several investigations regarding procurement and contracting systems, and the access of small businesses to those systems. Our charter for conducting these investigations does not authorize us to investigate cases involving criminality.

Should an Inspector General investigation uncover criminal aspects, that information would be turned over to the Criminal Investigation Command of the Army or other appropriate authorities, such as the Department of Defense, Inspector General, FBI, or Department of Justice.

Before summarizing these investigations, I should say additionally that Inspectors General not only must be highly qualified inspectors and investigators but most importantly for the Army, they must be teachers for the remainder of the Army.

In order to fulfill this essential role, Inspectors General must know how the Army, a very large and complex organization, runs; that is, how we do our daily business systemically.

Accordingly, the selection of Inspectors General, always a nominative process, has been made more selective. Training of Inspectors General have been intensified. The training course has been recently lengthened from 2 to 4 weeks, and will later this fiscal year be more than doubled so that officers and noncommissioned officers are well qualified not only in the techniques of being an Inspector General, but in how the Army runs.

A significant aspect of this program has been to insure that officers with experience and expertise in procurement, contracting, and commercial activities are a major part of the Inspector General team, both as inspectors and as investigators.

I would like to speak now specifically about the experience of the Department of the Army Inspector General with regard to small businesses and procurement problems uncovered during investigations and inspections.

The U.S. Army in total deals with thousands of small businesses on a daily basis acquiring both things and services. Specifically, through August of this year the number is 2.9 million contracts to small businesses amounting to $4.93 billion of this business.

As the representatives of the Army Inspector General, I will not go into detail on the actual experiences of all the various contracting officers at the hundreds of Army posts throughout the United States and overseas. However, our experience from those investigations and from those discussions reveal that the overwhelming preponderance of procurement actions are handled in a fair, efficient, and effective manner by Army military and civilian personnel.

The Department of the Army Inspector General has investigated directly only a few cases during the past 2 to 3 years, the period that I have personally supervised this activity. Several other cases have been referred to major subordinate commands of the Army to investigate with my office in a monitor role.

It is our experience that cases involving small business procurements or procurement in general tend to be long, drawn out, and complex investigations frequently taking many months and requiring several investigating officers. The issues are usually complex, involving intricate procurement law and regulations, and oftentimes fraught with emotion. However, we do a thorough and complete job, independent of outside influence.

An example of one of our major efforts within the past 2 years is a case which took 6 months of investigative effort by four primary investigators supplemented at various times by seven subject area specialists. There were 58 allegations addressed, 29 of them being substantiated at least in part, 23 were not substantiated, and 6 allegations simply did not have sufficient evidence to substantiate or refute. The central allegation or issue of the investigation was that a small business firm was not given a full and impartial opportunity to compete. This allegation was substantiated by the Army Inspector General, and a report was provided to the Congress in November 1981.

So we can and we do frequently take a critical and impartial look at what the Army does. Several systemic problems relating to acquisition authority, determination of findings, and other specific procurement practices were also identified in this particular case.

Frequently, we combine our efforts with the Army Audit Agency, the Assistant Secretary of the Army for Research, Development, and Acquisition, and other activities to arrive at an accurate, complete, fair, and impartial conclusion on the issues investigated.

An example of this is a very recent case involving spare parts for machineguns which has involved those activities just mentioned plus the Defense Logistics Agency and a major Army command, the Army's Materiel Development and Readiness Command.

This case, gentlemen, has been going on since September 1982, and involves several issues such as adequacy of contract provisions, preparation of quality deficiency reports, reasonableness or acceptance and testing procedures, adequacy of the technical data package prescribed for the contract, and use of the contractor produced product by the Army.

The basic conclusion reached indicates that both parties, the Army and the contractor, were at fault and neither can be considered totally responsible for the many production problems which have been encountered. It appears the final outcome will most likely be a termination for convenience to the Government and a negotiated settlement with the contractor worked out to the satisfaction of both parties.

It should be noted that negotiations have been underway with this contractor and other firms to obtain a new contract or contracts for production of this spare part.

In addition to those investigations conducted at the Department of the Army level, other commands throughout the Army are involved in the same process concerning small business activities. As an example, the Materiel Development and Readiness Command, DARCOM, which spends the lion's share of the Army procurement budget, $14 billion in the current fiscal year, has over the past 2 years conducted investigations involving 15 allegations made against small business operations.

These allegations typically include excessive charges on costs, conflicts of interest, security violations, and inadequate performance. Of those 15 allegations, only three were substantiated while 12 were not substantiated.

In addition, during the same period, the same command investigated 10 allegations made by small business concerns against the Army. These allegations included unfair contracts awarded to non-U.S. firms, loss of commercial activity type bids, award to other than the low bidder, restrictive procurements, and nonpayment for services.

One of these allegations was substantiated and nine were not substantiated. In addition to these allegations, the Darcom Inspector General is currently involved in investigations dealing with misuse of contracts to obtain items not specifically contracted for, and the acquiring of equipment by the Government that did not conform to stated standards.

Of greater long-range significance than investigations though, gentlemen, is the fact that the Department of the Army Inspector General and all our subordinate Inspectors General routinely inspect procurement functions in Army units and at installations around the world.

These inspections oftentimes cover the small business arena, to include organization achievement in support of the Department of the Army's small and disadvantaged business utilization program [SADBU]. Inspectors General review the small business contracting and subcontracting programs, small purchase transaction and procedures, internal controls of Small Business Administration actions, cost estimation, and many other facets of this program.

Of increasing importance in recent years is the Army's involvement in commercial activities at Army installations. Many of the firms supporting the Army through these activities are small, local businesses and the Army recognizes the importance of insuring that our personnel are knowledgeable in this vital, expanding field.

It is in these activities that the Inspector Generals' responsibility to teach correct practices comes into play.

That concludes my prepared remarks; I will be happy to answer your questions.

Mr. **Bedell**. Thank you, General.

Mr. Britt?

Mr. **Britt**. Thank you, Mr. Chairman.

In any of your surveys, have you found any hand-in-glove situation in your investigations between distributors and original equipment operators. In other words, you have a distributor who can buy from the original equipment operator, and that distributor qualifies as a small business, qualifies for a small business set-aside. We have some understanding that there may be some mischief within the relationships. Has that ever been an issue, have you ever investigated that situation, and have you found abuses there?

Mr. **Vander Schaaf**. Well, I can't give you any specific cases here for obvious reasons. I think that there are two investigations that I am somewhat aware of which are underway now. You always have a problem of bidding a spare part and someone who is not a manufacturer will, for some reason or the other, have lots of these spare parts.

He may have those for good reasons. He may be in the spare parts brokerage business. I do not believe we have had any cases that have resulted in criminal prosecution.

Mr. **Bedell**. Mr. Bilirakis.

Mr. **Bilirakis**. Mr. Vander Schaaf, how long have you been in your current position?

Mr. **Vander Schaaf**. Well, our IG office has only been in existence for about a year. I worked for the chairman of the House Appropriations Committee, and before that I worked for the Office of the Secretary of Defense. In all, I have been involved with Defense procurement for about 18 years. I am quite familiar with the spare parts business, and that is one of the reasons why we undertook to look at it when I went over to the Pentagon as the Deputy Assistant for Review and Oversight. This was an office that Secretary Weinberger created prior to passage of the Inspector General Act. I have known that we had problems in that the spare parts procurement for years.

I would go out into the field and I would talk to technicians, willing to talk about these things and I would say give me some of your examples, fellows, what have you got out here. A technician would come with a breifcase full of these items, and I was convinced that we had problems. You could find the horror stories, but you have got to find out how bad it is systemically, and that is what we are in the process of doing.

Mr. Bilirakis. There was no office in the Department of Defense and Inspector General prior to this?

Mr. Vander Schaaf. There were Inspectors General. There was not a DOD Inspector General.

Mr. Bilirakis. There was not a DOD Inspector General?

Mr. Vander Schaaf. When the original act was passed in 1978, a long debate ensued and a decision was made not to establish an Inspector General in the Department of Defense. Following that debate, a number of congressional committees were unhappy with the situation and continued to press for the creation of the Office of Inspector General. Eventually, last summer the Defense Authorization Act for fiscal year 1983, contained a provision establishing the Office of Inspector General in the Department of Defense.

Mr. Bilirakis. So this audit that you referred to that was just recently conducted, you referred to it in your testimony, that it is without precedent; in other words, there have not been any similar audits?

Mr. Vander Schaaf. One of the things we found was that we have many audits on spare parts. There have been a number of audits involving spare parts requirements, reclamation of spare parts, distribution, disposal, recovery from disposal yards, warehousing. But we have not had good audits of pricing and pricing practices and that is where we are beginning to zero in.

Mr. Bilirakis. I would ask the military officers, the generals and captain, how long have you been in your current positions as Deputy Inspector General?

General **Solomon.** I have been serving since August 1981.

Mr. Bilirakis. Prior to that, sir, were you with the Inspector General's Department in some other capacity?

General **Solomon.** I was the former chief of public affairs of the Army.

Mr. Bilirakis. I see. And you, gentlemen?

General **Falls.** My current job is Deputy Inspector General for the Air Force has been since August 1982.

Mr. Bilirakis. Prior to that, were you in the Inspector General's office?

General **Falls.** Not in his office, but I worked with him. I took command of the Air Force Inspection Safety Center.

Captain **Martin.** I've been with the Navy Inspector General for 14 months and I've been the deputy for 3 months.

Mr. Bilirakis. It seems that none of you really have been in your particular office for so very long. Just one general question. I am trying, Mr. Chairman, to get to the activity of what is taking place now versus what may have taken place previously. Is, in fact, some progress being made or is there a showing that we are really truly and honestly cognizant of the problem and working toward it.

Can you address that, gentlemen, considering that you have not had your position very long?

Mr. Vander Schaaf. I would love to address that, Congressman Bilirakis, because I think some progress is being made. I went through this problem back in the late 1970's with Chairman Mahon at that time; we did our best to stimulate some activity over there in the Pentagon to correct this problem.

We had some progress. The Air Force started a zero pricing program, I believe it was called, but I do not really think it had the punch it needed to do the job. The same thing applied to the spare parts breakout. The spare parts breakout programs never amounted to very much.

We did not have the top level direction that we have got now. My boss, Mr. Sherick, meets with the Secretary of Defense each morning. The Secretary is extremely interested in this problem of spare parts, and I feel certain that he wants and intends to do something to correct the situation.

Mr. **Bilirakis**. Gentlemen, a leading question, and forgive me for asking it, because I have a great respect for military officers. I was a staff sergeant myself.

Do you consider yourselves and your departments qualified to do the job that is required of you considering you have not been Inspectors General and in this investigative area, you know, that very long and whatnot?

General **Solomon**. Congressman, speaking for the Army, we have increased sixfold over the past 2 years the number of procurement acquisition specialists assigned to the Inspector General's Office. We are now teaching this complex process in a 2-week course, which is quite an improvement from zero hours prior to September 1981. The Army Logistics Management College at Fort Lee is now conducting a special course in this activity not only to qualified people but to leadership across the Army in procurement practice.

Mr. **Bilirakis**. Are we providing any incentives for our military people, sir, to be whistleblowers, if I might use the term? I do not necessarily mean money, since money I do not believe would be applicable to military personnel.

General **Solomon**. My response would be, no, sir, not specifically. I would also say that both soldiers and civilians are encouraged to report inefficiencies to the chain of command and there are various hotlines.

General **Falls**. Sir, I think in the Air Force that we qualify. We have a lot of people with expertise in procurement, supply, and all of those areas. When we come upon a problem, we gather from without the Air Force the experts in that particular area, who go in under the auspices of the Inspector General and do a report and an investigation, and look at what the problem is or are.

Currently we have one on spare parts—the Air Force Management Systems Group, we are looking at how we determine requirements how we determine price, what the problems are, what actions are necessary to prevent this from happening in the future. In fact, we have appeared before the Congress, and I have forgotten exactly the date, so we do have some actions and initiatives underway.

Mr. **Bilirakis**. Do the military evaluation forms—is it yearly, I cannot remember—the officers as well as the enlisted men, efficiency reports, if you will, do any of those contain any provision for incentive in terms of saving taxpayers' dollars?

General **Falls**. There is in the Air Force, there is a block which is devoted to management resources which would be personnel, manpower, as well as dollars.

Mr. **Bilirakis**. And it is clear to the individual, to the officer or enlisted man that dollars is intended there?

General **Falls**. Yes, sir. You are saying resources?

Mr. **Bilirakis**. Well, dollars saved. I mean we are on the same wavelength there.

General **Falls**. Well, just trying to accommodate. If an officer did save some money through improved management through improved techniques, that he saved $450,000 or whatever.

Mr. **Bilirakis**. I am not concerned how many dollars they spent as how many dollars they saved.

Thank you, gentlemen. Thank you, Mr. Chairman.

Mr. **Bedell**. I don't know how significant it is, but I think you should get a copy of the Inspector General activities across the country. It would be the total number of audits. You have got it recorded. It is for the second 6 months of fiscal year 1982, so it is fairly recent.

Mr. **Bilirakis**. I thought you would probably get into that, Mr. Chairman.

Mr. **Bedell**. I think that it is important for the subcommittee to have.

Mr. **Bilirakis**. I think it would probably be important for the gentlemen sitting before us to be aware of the fact that the subcommittee does have the results of the summary.

Mr. **Bedell**. I think maybe it would be well for them to send us a report, do you not?

Mr. **Bilirakis** Yes, sir.

Mr. **Bedell**. As to why the figures are such as they are.

Mr. **Bilirakis**. It looks damaging.

Mr. **Vander Schaaf**. Those are the semiannual report that we submit to Congress?

Mr. **Bedell**. The report of the Inspector General activities addressing broad based abuse.

Mr. **Vander Schaaf**. That's the OMB report. What I want to provide to you and I think you'll have a lot more information, a lot better information, is the semiannual report that the DOD Inspector General submits to Congress. That is a report required by law and submitted each 6 months, and we will send you the latest report.

Mr. **Bedell**. We don't mind having that. I think that we would also, and let me speak for myself, I would like to have an answer to this report. You know, it is very easy for you to send us a report to tell us how great you are doing, and this would indicate that you are not doing very well.

Mr. **Vander Schaaf**. As related to other Inspectors General.

Mr. **Bedell**. I think that therefore it is only proper that you furnish us an explanation of why this looks so damaging, if you could.

[A copy of the semiannual report of the Inspector General is on file with the subcommittee.]

Mr. **Bedell**. Mr. Vander Schaaf, you indicated or is it correct that you have been assigned to the Defense Logistics Agency?

Mr. **Vander Schaaf**. No, I have not been assigned to Defense Logistics Agency.

Mr. **Bedell**. You don't have that under your——

Mr. VANDER SCHAAF. The Defense Logistics Agency Inspector General organization was incorporated into the Inspector General's Office of the Department of Defense by legislation last year and we now have got that organization under our wing. We're broadening the scope of what it does.

Mr. BEDELL. We did have one person testify from the Department who indicated that in his opinion this was just kind of a blunder.

Mr. VANDER SCHAAF. Well——

Mr. BEDELL. Wait until I am finished. We had testimony yesterday which indicated that when this was all transferred over to people at the Defense Logistics Agency that they simply were just so overwhelmed, that they tended to sole source many bids because it was simpler than making than competition. We had testimony the day before that indicated that there has been less competitive bidding every year in the last 4 years.

My question to you would be how do you perceive that situation?

Mr. VANDER SCHAAF. Let me try to put that situation in scope just a little better. What you are talking about is the transfer of 200,000 more consumable items from the military departments to the DLA. The objective being that DLA would eventually manage all consumable-type items. The items for the most part would not require a lot of engineering or technical review.

We have issued an audit report on that transfer because of claims made by the Small Business Administration about what happened at the Tinker buying center of the Air Force regarding some abuses and problems which resulted. I want to make that report a part of your record, if I may, Mr. Chairman, because it is a very interesting report.

Generally, the audits that have been done, not on this specific transfer itself, but on the potential savings resulting from bringing more consumable items over to DLA management instead of the military department management are significant.

There have been a number of audit reports. Before I came to the Department of Defense, the Defense Audit Service did an audit report on this consumable item transfer, and it showed some major savings. The organization called the Grace Commission, I think the proper name is the President's private survey on cost control, had as one of its items recommended a major savings could be made through the transfer of management of additional consumable items to the DLA.

Now, with respect to this particular instance you are talking about, there were blunders on both sides, but I do not think you can make an analogy to the typing pool as your previous witness did. You put too many typists in a pool, you are going to get not very good typing service.

No matter if they are transferred out of the Air Force or if they are transferred out of the Army and brought to DOD. In either case, they are still managed by huge organizations. I just do not think that that is a fairly good description of the problem.

DLA's record with respect to buying products on time delivery is better than the services. There is some reason for that because they tended to buy simpler, easier to purchase products. According to figures that I have seen, DLA is doing a good job.

Mr. BRITT. If the gentleman would yield.

Mr. **Bedell**. I would be glad to yield.

Mr. **Britt**. It is my understanding that there are like five engineers in all of DLA. Most successful aspect of the spare parts competitiveness was in the breakout program. They spent years at Tinker Air Force Base breaking these items out into competitive procurement codes; 200,000 items were transferred to DISC.

Because of the overload of DISC, DISC goes back and changes codes from a competitive code to a noncompetitive code. Those go back to sole source supply, and the whole effort at Tinker Air Force Base is lost. How can DISC, with five engineers and 200,000 items or whatever, be in that competitive process or breakout process.

First, you have to reverse what has already been done, and then you have to begin to try to break out 200,000 items with a limited number of engineers. It does not make any sense in the way this thing has gone.

Mr. **Vander Schaaf**. A couple of comments on that. The breakout program has not been a roaring success before this time either. I think you'd be misled to believe the breakout has been successful. The General Accounting Office has reported time and time again that it had not been a successful program when managed by the services.

Mr. **Britt**. We had testimony by one gentleman yesterday who saved $3.9 million in one quarter. If that is not success, Mr. Vander Schaaf, I do not know what is successful.

Mr. **Vander Schaaf**. Let me submit some of those GAO reports to you on that breakout program and some of the problems. Now in the last year or so, since the pressure started being put on this spare parts issue, more attention is being paid to it and new breakout directives of equipment. I think Ms. Gilleece discussed some of those new directives and regulations and we are going to have a better breakout program in the future.

Mr. **Britt**. Do you know how complicated it is for a small business that is not producing an item, has not in the past manufactured an item, to now bid upon an item that is held by DLA?

Mr. **Vander Schaaf**. It can be very complicated, yes, sir, especially if the business has not had a lot of experience in dealing with the Government.

Mr. **Britt**. Are you familiar with the LO-6 clause and the new provisions that continue to complicate?

Mr. **Vander Schaaf**. No, I am not, but I realize the problems faced by small businesses.

Mr. **Britt**. I would be very interested in seeing your report if it says that the transfer of CIT items from Tinker Air Force Base to the DLA is successful.

Mr. **Vander Schaaf**. Our report found some problems; we did not find the gross kind of waste that was alleged by the Small Business Administrator at that location.

Mr. **Britt**. Mr. Vander Schaaf, the whole process with Tinker, as I understand it, is computerized. The DLA, because the partial savings objective would be saved in computerization of procurement at DLA, when they came to make the transfer, the two programs did not even talk to each other, they did not match. That is an error that is absolutely staggering, sir.

At Tinker Air Force Base, they packaged every single item with the specs and the drawings, put them into manila folders, packed those into boxes, sent those so that every item transferred from Tinker to DLA would have the specs and the drawings that could be continued to competitive bidder.

Those were stored, not found, because they did not have specs or drawings, the items were changed from competitive to noncompetitive, wiping out years of work. It has been a disaster. I would be very interested in your report.

Mr. VANDER SCHAAF. I hope you will have time to read our report. We found it not to be a major problem.

Mr. BEDELL. If the Chair could continue. You talked about the GAO report, and I will read from that report for the benefit of the committee. This is by the GAO:

> In summary, we believe the Air Force is not breaking out to the maximum practical extent for competition or direct purchase to high dollar value where there has been a replenishment of spare parts supplied by large prime contractors. Breakout efforts at ALC's have been limited because of a lack of information on the actual manufacture of the parts and uncertainty about the Government's rights to use technical data prepared by the prime contractor.

It seems to me the GAO report is confirming what our belief is, that it is not being done properly. We have in the Congressional Record, you are probably aware of it, a report. It is the Congressional Record of July 2l, and the statement was by our colleague, Mr. Moody. It is a proposed report by your Department. Are you acquainted with that or not?

Mr. VANDER SCHAAF. I am not sure about the date, but I am sure you mean our draft report on aircraft engine spare parts.

Mr. BEDELL. Yes, right.

Mr. VANDER SCHAAF. That report was publicly released even though it was still in draft form.

Mr. BEDELL. This says that more than 4,000 line items purchased by the Navy and Air Force increased over 500 percent in cost between 1980 and 1982, and many spare parts increased in cost by 1,600 percent.

This report that you had made out, has it ever been published?

Mr. VANDER SCHAAF. No. We used a table in that report, the information for which was obtained from magnetic tapes provided by the services. The auditors, in the process of running the magnetic tape on the computer, got some codes confused, and ended up with total prices, end prices, including the full quantities, rather than unit prices in that data in there, and the table is wrong. There's no doubt about the data on that tape.

The individual items in that report and the individual examples, the pictures, and the cost of those items that we actually specifically checked and are correct, because we went back and we're redoing the entire thing. We are going back over all those procurement history tapes. We are going to have to track each and every item back to the buyers' folders to see what he estimated the cost would be or what the previous buys were, because we found that the data on the computer printout pages was not very good either.

Mr. BEDELL. You found that there's some mistakes in the proposed report, that was in July?

Mr. VANDER SCHAAF. Yes, sir.

Mr. **Bedell**. When do you expect correction?

Mr. **Vander Schaaf**. I hate to get tied down to a number, because I have to go through the report and tables.

Mr. **Bedell**. I am talking about what year. [Laughter.]

Mr. **Vander Schaaf**. Sometime in November. Probably be in October, but to give ourselves a little leeway, to assure that we have the tables correct, we must go back and check each and every one of those spare parts folders. We cannot retrieve the data with confidence from the computer tapes. We have to review the hard data and then compare and scorekeep it across some 70,000 individual transactions.

Mr. **Bedell**. To whom do you report, Mr. Vander Schaaf?

Mr. **Vander Schaaf**. I report to the Inspector General and he is the semi-independent Inspector General created by the Congress. He reports in line to the Secretary of Defense for general supervision and then to the President.

I could go into a long explanation, Mr. Chairman, about that. I do not think you probably want to hear that here. That was a big argument about why the Defense Department did not have an Inspector General when the original Inspector General Act was passed.

Mr. **Bedell**. Whom do you report to, General Solomon?

General **Solomon**. To the Secretary of the Army and the Chief of Staff of the Army, sir.

Mr. **Bedell**. General Falls?

General **Falls**. The Air Force is of the same sort, the Secretary of the Air Force and the Chief.

Mr. **Bedell**. Captain Martin?

Captain **Martin**. The Secretary of the Navy and the Chief of Naval Operations.

Mr. **Bedell**. Did any of you have to submit your testimony to be prepared, your testimony was not prepared by OMB or anybody?

Mr. **Vander Schaaf**. My testimony was sent to OMB, but only out of courtesy. They did not clear my testimony.

Mr. **Bedell**. That is what I mean, they did not have an opportunity to make changes in it?

Mr. **Vander Schaaf**. No. If they saw a factual error, or something that they wanted to correct, but no one came back to me and said, "You change your testimony."

Mr. **Bedell**. How many engineers are there in Defense Logistics Agency?

Mr. **Vander Schaaf**. I do not have the figures, sir. I can get it for you.

Mr. **Bedell**. I think it would be of interest of the committee to know.

[See General Connolly's prepared statement.]

Mr. **Bedell**. Are you acquainted with the fact that on the last day of the purchasing year or fiscal year that the Pentagon had a contract for $2 billion?

Mr. **Vander Schaaf**. Yes, sir, I am.

Mr. **Bedell**. The biggest contract to date that there has ever been since the Vietnam war?

Mr. **Vander Schaff**. I am not sure that it has been the biggest contract. It may be the biggest contract.

Mr. **Bedell**. Does that concern you?

Mr. **Vander Schaff**. Yes, it concerns me; yes, sir. But we are willing, we ought to look at that problem. We have looked at that problem for years, the problem of the year-end spending. It is particularly a problem when you look at the 1-year appropriations, primarily the operations and maintenance appropriations.

Their situation is that they could be just trying to put money on the bill. But in many cases, if it is the multiyear money, these contracts could have been negotiated over a long period.

Mr. **Bedell**. Mr. Ireland, I see you are back.

Do you have any questions?

Mr. **Ireland**. No.

Mr. **Bedell**. If not, we appreciate very much your testimony. I want to again thank those others who are waiting. We will recess for about a half hour.

[Whereupon, at 1:05 p.m., the subcommittee recessed, to reconvene at 1:30 p.m. the same day.]

AFTERNOON SESSION

Mr. **Bedell**. The subcommittee will come to order.

We just had a vote on the floor of the House, so maybe some of the members may be a little bit late. But due to the fact that we have kept these folks so long, I think we will go ahead and proceed.

[The witnesses were sworn.]

Mr. **Bedell**. Who is first? General.

TESTIMONY OF MAJ. GEN. DAVID W. STALLINGS, DIRECTOR OF PROCUREMENT AND PRODUCTION, U.S. ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND, DEPARTMENT OF THE ARMY, DOD

General **Stallings**. I am General Stallings from the Army and specifically from DARCOM, the Development and Acquisition Command. You have a statement, sir, from us on H.R. 2133. As I listened to the comments this morning, everything we had in our statement has been covered. So unless you specifically want me to go back over some of those same comments, I would like to make some remarks concerning spare parts which seems to be your greater interest.

Mr. **Bedell**. That is tremendous, and your statement will be entered in the record, General.

General **Stallings**. The statement that was referred to by Ms. Gilleece that was published by the Secretary of Defense on September 29. In fact, when the overpricing spare parts first came to our attention back in early April, we put together a task force to begin looking at the pricing of spare parts to make sure that we were paying a fair and reasonable price.

In our commands, we appointed our deputy commanding general for each of our commands the competition advocate in order to give spares the proper attention. We must insure that the highest level of our commands are concerned about the competition and breakouts.

He will have working for him a breakout manager as is directed in the DAR supplement. That has also been brought to your attention this morning. This breakout manager is the person who will spend his full time trying to obtain competition and breakout, and certainly will give a lot of attention to spare parts.

One of the things that I think is more important that has been done is that we asked our MSC commanders—located in Warren, Mich., and the other four MSC commanders—to go to each of his major suppliers in writing to discuss problems on spare parts procurement and to ask them to join with us to insure that we're paying a fair and reasonable price.

It will take both the contractors and the Government working together to insure that we gain fair and reasonable prices. We think that action will pay a lot of dividends to us.

In that breakout program and under the breakout program manager that I was talking about, in 1984 before we go with any procurements, we are going to review all acquisition management codes to insure that they are properly coded before we initiate any procurements in fiscal year 1984.

We also are going to provide a history to our buyers so that if there is a price increase of greater than 25 percent when he looks at his procurement record, that should key him not to make the procurement without a higher review.

Finally, that is going to take a great deal of education down to the buyer level. We're working very hard on that to insure that these people who are usually the lower graded folks who are buying the spare parts are properly educated and have the wherewithal to insure that they are paying a fair and reasonable price.

Mr. **Bedell**. Thank you very much, General.

[General Stallings' prepared statement follows:]

Prepared Statement of Maj. Gen. David W. Stallings, Director of Procurement and Production, U.S. Army Materiel Development and Readiness Command, Department of the Army, DOD

I am pleased to appear before the subcommittee today to discuss the changes to the Small Business Act proposed in H.R. 2133.

The House Small Business committee can be justly proud of drafting legislation which not only greatly assisted small and disadvantaged business firms but also assisted in the protection of the free enterprise system. I am, of course, referring to the major amendments to the Small Business Act as the result of Public Law 95–507 and assistance provided small research and development firms by Public Law 97-219.

However, many of the H.R. 2133 proposed amendments to the Small Business Act have an adverse impact on the efficient, timely acquisition process. Some of the more significant problem areas are:

A. The bill appears to effectively delete "Qualified Products Lists" and would also shift bidder responsiveness into the area of responsibility. H.R. 2133 would exempt small business from the responsiveness requirement of qualified product list buys and give the Small Business Administration responsibility for deciding whether technical requirements are met by prospective contractors.

B. An agency small business goal should be based on a reasoned understanding of that agency's potential to achieve desired levels of small and disadvantaged business participation. The proposed language on page 9 and 10 of H.R. 2133 conflicts with language on page 8, line 19 and 20 which says goals should be reasonable. The supportive attitude of contracting personnel is impaired by annually increasing the goals beyond what is reasonably attainable.

C. The bill presumes that all buys of less than $2 million can be performed by small businesses. The Army made over 52,000 awards in the $25,000 to $2 million range in fiscal year 1982, about half going to small business. The creation of 26,000 additional pieces of paper justifying the decision not to make a set-aside will only complicate the decision making process that should lead to intelligent set-asides.

There are other areas of the bill which we believe would also affect the Army's ability to make efficient, timely procurements, but I have confined my remarks to the more significant areas.

Admiral **Sansone**. I would like to go next, Mr. Chairman.

Mr. **Bedell**. You are Rear Admiral——

Admiral **Sansone**. Joseph Sansone, sir.

Mr. **Bedell**. I want to welcome you, and advise you that we have a Rear Admiral in the Iowa navy.

Admiral **Sansone**. Yes, sir, I am aware of that, Mr. Chairman. I respect that position very highly. [Laughter.]

TESTIMONY OF REAR ADM. JOSEPH S. SANSONE, JR., DEPUTY CHIEF OF NAVY MATERIEL (CONTRACTS AND BUSINESS MANAGEMENT), DEPARTMENT OF THE NAVY, DOD

Admiral **Sansone**. Mr. Chairman, I would also like to prevail upon you, if I may, to accept my statement into the record and make myself available to answer whatever questions that the committee and the chairman may have. I would like to summarize just a couple of points, if I may.

Like the other services, the Navy has a very dynamic program for breakout to competition, and for breakout to direct vendor buying. We believe that this program will provide substantial benefits, not only for achieving spare part price reductions, but for increasing small businesses' opportunities.

This year, at the beginning of fiscal year 1983, the Navy put an additional 65 personnel resources into our aviation supply office, and our ships' parts control center. With the addition of these equipment industrial and production specialists into the engineering disciplines, we believe that we now have the adequate resources to implement the dynamic program, that we started last year.

In addition to that program for breakout at our two inventory control points where we do all of our spare parts buying, we convened very early this year, prior to Secretary Weinberger's 10-point program, a flag-level steering group consisting of all disciplines: engineering, the supply, logistics and business management, to immerse ourselves in a very intensive look at the whole of the spare parts breakout and competition problem.

Recently the Navy approved a 70-point program that will give us an insight into the solving, of the problems, not only those that Secretary Weinberger articulated in his 10-point program, but others as well.

We are calling that project, "Project BOSS—Buy Our Spares Smart." We think that we have a handle on the problems, and we think that we know how to repair them.

So with those few remarks, Mr. Chairman, I am available to answer any questions that you may have, sir.

Mr. **Bedell**. Thank you. Your complete statement will be made a part of the record.

Admiral **Sansone**. Thank you, Mr. Chairman.

[See appendix C for additional submissions of Admiral Sansone.]

[Admiral Sansone's prepared statement follows:]

PREPARED STATEMENT OF REAR ADM. JOSEPH S. SANSONE, JR., DEPUTY CHIEF OF NAVY MATERIEL (CONTRACTS AND BUSINESS MANAGEMENT), DEPARTMENT OF THE NAVY, DOD

It is a pleasure to appear before your Committee today to discuss Department of the Navy concerns relating to H.R. 2133, a bill "To amend the Small Business Act".

The Navy's record in support of the Small Business programs is excellent, and we continually strive to improve. Comparing our performance through August 1983 to the same period in FY 1982, the Navy's small business prime contract dollar awards increased by 9.7% ($3.31B to $3.63B) and our small disadvantaged awards by 23.4% ($299M to $369M), including a 45.6% ($103M to $150M) increase in Section 8(a) awards. In addition, we have taken affirmative action during the last fiscal year and have more planned for the future to promote small business opportunties. For example, the Navy has enthusiastically participated in seven conferences cosponsored by Congressional members and our Office of Legislative Affairs since March 1983, wherein approximately 1,100 small business firms were briefed on "How to do Business with the Navy". Moreover, we have eight more planned for the next 75 days. Similarly, over the last two years the Navy participated in 47 Federal Procurement Conferences for small businesses and had lead coordination on 12. Later this month the Navy will conduct its Second All-Navy Small and Disadvantaged Business Utilization Conference where most of our 171 Small and Disadvantaged Business Utilization Specialists will meet to discuss, in detail, additional ways to improve the Navy's Small Business programs. Also, the Navy recently went beyond the Defense Acquisition Regulation (DAR) requirements by requiring our contracting offices to display in a public place all small purchase solicitations in order to stimulate competition and small business interest. Speaking of competition, the Navy's performance is improving in this area, as well. Through the first eleven months of fiscal year 1983 the Navy awarded 1.8 billion dollars more competitively than the same period the previous fiscal year. This improvement will continue in fiscal year 1984 as the result of several Navy initiatives. First, we have recently established competition advocates in 40 of our largest buying activities. Second, we have a flag rank officer assigned as the Navy's Competition Advocate General. Third, we have significantly increased the staffing at Navy Inventory Control Points in order to focus on breakout and competition in the area of spare parts. This initiative has already produced estimated savings of 22 million dollars through increased breakout from prime contractors or competition where none previously existed. Fourth, the Chief of Naval Material recently approved a multifaceted program called BOSS (Buy Our Spares Smart) which contains over 70 initiatives to improve the procurement of spare parts in the Navy. I believe these initiatives are producing measurable results that will lessen or eliminate the need for the statutory requirements contained in H.R. 2133.

I would like, now, to address briefly some of the major Navy concerns with H.R. 2133:

A. The bill would have the effect of eliminating the dollar value of the contract and the nature of the work to be performed as elements of responsibility when evaluating a Certificate of Competency (COC) referral. These items are significant evaluation factors and their deletion would have an adverse impact on the Navy and the small business community because of the increased potential of awarding a contract to an unqualified small firm. The Navy also opposes the deletion of the qualified products list procedures for small businesses, since they are designed to ensure a stated standard of quality before submission of bids, without which long delays may occur in the acquisition of critical Navy items.

B. The proposed amendment requires a decision be made by the Secretary or agency head when agreement cannot be reached between "the administration and the Government procurement officer", rather than the "Administration and the contracting procurement agency" as currently stated. This change will place a significant administrative burden on the Secretary of the Navy and the possibility of resolving the differences at a lower level would be virtually eliminated.

C. The new language infers that agencies should split or reduce their requirements to insure that small businesses have an opportunity to submit offers. While the Navy endeavors to promote competition and small business opportunities, we believe the way a requirement is packaged is an agency decision based on many factors contained in the overall acquisition strategy and should not be subject to the dispute provisions of the proposed bill. In regard to material, the Navy has been striving to increase quantities of items to be procured in order to obtain lower unit prices through the attainment of Economic Production Rates and Economic Order Quantities, both of which are critical to reducing costs for spare parts. In addition, the benefits of both of these goals is well documented in our many Multiyear Procurement candidates that have been submitted to the Congress.

D. The proposed legislation would establish five circumstances under which the head of a contracting activity may authorize a noncompetitive purchase of spare or replacement parts. Notwithstanding the increased administrative actions that this would place on procurement personnel, I believe it is inappropriate for the Small Business Act to establish the noncompetitive conditions for procurements of commodities and services from both large and small businesses. Over this range, conditions may vary and some discretion must be left to individual commands. In this regard, the Navy recently tasked its competition advocates to ensure that their commands have a documented system for challenging noncompetitive procurements and suspected cases of overpricing.

E. With respect to the provision on goals, the Navy agrees that goals should be established within the first sixty calendar days of the fiscal year to which they pertain, but the Navy suggests that some flexibility is necessary in the per centums contained in the proposed legislation.

F. The provision assuming that all procurements between $25,000 and $2,000,001 are automatically set-aside for small businesses unless a written determinations and findings is signed by the head of a buying activity is considered unnecessary and administratively burdensome. Currently, the contracting officer makes set-aside determinations and the head of the buying activity becomes involved only if the SBA Procurement Center Representative (PCR) and the contracting officer cannot reach agreement. The Navy believes that this relationship should be preserved.

In closing, Mr. Chairman let me assure you and the members of your Committee that the Navy is and will continue to be active in its support of the Small Business program. We have actions underway which are producing real results and we believe the provisions of the proposed amendment are not necessary.

I would be pleased to answer any questions that you may have.

Thank you.

Mr. **Kemp**. I am next, sir.

Mr. **Bedell**. All right.

TESTIMONY OF IRA L. KEMP, ASSOCIATE DIRECTOR OF CONTRACTING AND MANUFACTURING, DIRECTORATE OF CONTRACTING AND MANUFACTURING POLICY, U.S. AIR FORCE, DOD, ACCOMPANIED BY DON RELLINS, DIRECTOR OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION, USAF, DOD

Mr. **Kemp**. I am Ira Kemp, and I am the Associate Director of Contracting and Manufacturing Policy for the Air Force. I, too, have a statement that I would like entered into the record, sir, but I would also like to read at least a small portion of that statement to emphasize some of the current concerns we have with the bill.

Mr. **Bedell**. Your total statement will be made a part of the record and you may summarize in whatever way you wish.

Mr. **Kemp**. Thank you, sir. Our key concern, and we have many, sir, with the bill, frankly we do not favor the bill, but our key concern is to make the committee understand that the Air Force has, first of all, five major centers responsible for the procurement of spare parts. These centers are headed by general officers and employ about 15,000 to 20,000 people at each center and anywhere from 300, 400, 500 people work in each procurement organization.

Now, to give you some idea of the impact of the bill upon us. During fiscal year 1982, the Sacramento Air Logistics Center, which is really the smallest of our centers in terms of people and dollars, they processed over 82,000 procurement actions, two-thirds of which were competitive.

Now, pursuant to the bill, this means that under the proposed legislation, the commander at Sacramento who is a two-star general would have to certify the propriety, really, of 27,000 procurement actions. That equates to more than 100 certifications a day with regard to the sole source aspects of the procurement.

It is a tremendous workload. Frankly, we have procedures to deal with sole source justifications and make sure that appropriate people are looking at the sole source justifications with regard to their value, and importance, and significance with regard to the objectives of the organization.

There is another provision of the bill which would require a determination by the commander of Sacramento which requires his determination on every buy between $25,000 and $2 million when his contracting people find they cannot make a set-aside or 8(a) award.

In the first 10 months of fiscal year 1983, Sacramento had almost 2,000 procurement actions over $25,000 which did not meet the criteria for set-aside or 8(a). It should be noted that during that period, Sacramento did make set-asides or use 8(a) in over 21,000 procurement actions.

I guess what we are trying to say in summary, Mr. Chairman, is while the bill attempts to cure what are perceived ills in the small business program, it creates more problems for us administratively in terms of cost effectiveness, in terms of obligations, and really, the sincerity of our people, the direction of our programs, the integrity of what we are trying to accomplish, and we do support the small business programs. To many people those appear to be cheap words but let me assure you, over and over again, we have a very active small business program. I think some of you talked to a small business representative from Oak City yesterday, I think he's reflective of the kind of people that we have in our small business program that are seeking to assure that small business gets every possible opportunity to compete and participate in Air Force programs.

Mr. Chairman, I would like to conclude at this point and I would be willing to answer any questions you may have with regard to the spare parts programs.

Mr. **Bedell**. Good. We appreciate that very much, Mr. Kemp, and we appreciate your brevity and your entire statement will be made a part of the record.

[Mr. Kemp's prepared statement follows:]

PREPARED STATEMENT OF IRA L. KEMP, ASSOCIATE DIRECTOR OF CONTRACTING AND MANUFACTURING, DIRECTORATE OF CONTRACTING AND MANUFACTURING POLICY, U.S. AIR FORCE, DOD

I am Ira Kemp. I am the Air Force Associate Director of Contracting and Manufacturing Policy. I am accompanied by Mr. Don Rellins who is the Air Force Director of Small and Disavantaged Business Utilization. We appreciate the opportunity to appear before the Committee and comment on H. R. 2133.

The bill attempts an omnibus fix of many of the Small Business Act's perceived weaknesses in carving out a share of the government procurement dollar for small businesses. While we fully endorse efforts to optimize the opportunity for small business participation in government contracts, we cannot endorse this bill's methodology. The direction the bill is taking would have us lose sight of the fact that our procurement function exists for support of the Air Force mission. That mission is national defense. While Air Force procurement can and should reflect support of other national objectives, it should not do so to the deteriment of its primary function.

Our main concerns with this bill are focused on those provisions which would unnecessarily and unduly burden the procurement process with, in our opinion, no resultant benefit for small businesses. The bill is attempting to close what have been perceived by some as loopholes in the Act. However, in so doing, the bill has usurped existing prerogatives which in the past have been exercised through reasoned and expert judgements. It has been our experience that legislating matters that are best left to policy or regulatory treatment removes the flexibility and latitude necessary for responsible agency action. It also produces work around procedures.

To make this point, I will comment on several of the bill's provisions. A number of the provisions assign decision making authority to a specific agency official. This assignment is made without regard to existing practices or normal workload processing. For example, the proposed amendment of Section 15(b) of the Act requires that the necessity for any sole source solicitation for spare parts be certified by the head of the buying activity. The Air Force has five major buying centers responsible for spare parts procurement. These buying activities are headed by General Officers and employ around 15,000 people. Three to five hundred of these people are employed in the contracting office.

During FY 82, Sacramento Air Logistics Center, which is the smallest center in terms of people, dollars and actions, processed 82,000 procurement actions. Two thirds of these actions were competitive. This means that under the proposed legislation Sacramento's two-star general would have to have certified the propriety of 27,000 procurement actions. That equates to more than 100 certifications a day and 80% of those actions were for less than $10,000. Our existing procedures require approval of sole source awards but they designate an approval authority consistent with the dollar value of the action and the associated responsibilities of the individual.

There is another provision of the bill which would require a determination by Sacramento's two-star general. The amendments to Section 15(j) require his determination on every buy between $25,000 and $2,000,000 when his contracting people find that they cannot make a set-aside or 8(a) award. In the first ten months of FY 83 Sacramento had 1,933 procurement actions over $25,000 which did not meet the criteria for set-aside or 8(a). It should be noted that during that period Sacramento did make a set-aside or use 8(a) on over 21,000 procurement actions.

A third example which would help explain our concern is associated with the amendments proposed to Section 15(a) of the Act. Specifically, the language would make a disagreement between an Air Force contracting officer and a Small Business Administration representative on buys of less than $25,000, including those processed by simplified purchasing procedures, subject to an appeal procedure which would involve the Administrator of the Small Business Administration and the Secretary of the Air Force and all of their intermediate levels in between. This particular appeal procedure takes 60 working days, almost three months, and delays the buy during that period. There are few procurement actions which can sustain this type of unanticipated delay and still support the Air Force mission.

I will take a few more minutes and comment on other troublesome provisions of the bill.

The proposed amendment to Section 8(b)(7) of the Act would require that a contracting officer permit consideration of an offer from a small business firm which is offering a product not currently listed on a Qualified Products List (QPL) or other "qualified products lists." Our current practice when we are buying items covered by a QPL is to require that products be qualified prior to the opening of bids or prior to award on a negotiated procurement. This practice evolved through experience and we have found it to be the fairest and most efficient way of insuring that firms receiving contracts have, in fact, demonstrated the ability to produce parts which meet all military performance and safety requirements. This procedure puts the particular industry on notice of the time frame for qualification and the requirements for manufacturing and supplying these parts. Some of these critical qualification tests do take time, but they are necessary to insure the safety of the parts and to avoid any delays due to quality problems. In our opinion, it would be unfair to expect the small business firms to accept the risk associated with a contract termination based on problems that could have been identified during qualification or to require the Air Force to abandon a proven, successful procedure for qualifing critical parts.

We must also oppose the modification to Section 15(b)(1) which would require the Air Force to reduce or possibly split requirements to promote small business opportunities. First, the Department of Defense already has an established policy to divide acquisition quantities into economic production lots, where feasible, to facilitate small business participation. Second, to legislate split buy, beyond economic production lots, would result in numerous small lot buys which would greatly increase acquisition costs, handling, administrative time and risk. It would also negate many of our efforts to encourage new sources to compete in the military parts markets by reducing production runs. In fact, many of our current actions to improve spare parts contracting are directed at eliminating the inefficiencies of small quantity buying practices. Our whole thrust is to competitively buy spare parts in economic order quantities to save defense dollars. This requirement could significantly impact this effort and would eliminate any management flexibility in achieving our multiple objectives.

Another provision which amends Section 15(j) modifies the language enacted by P. L. 95-507 which reserved for small businesses all procurements of less than $10,000, which were subject to small purchase procedures. This bill deletes the qualification that the buy be subject to small purchase procedures and increases the dollar value from $10,000 to $25,000. This type of legislation is based on a presumption that everything, perhaps with few exceptions, is available from small businesses as long as you do not buy more than $25,000 worth at one time. Frankly, the presumption is wrong. Of the 3.4 million Air Force procurement actions of less than $25,000 which have been awarded thus far this year, one million actions were for items not available from at least two small businesses. The effect of the legislation is to have contracting personnel make a negative rather than a positive determination of set-aside potential. This is not a problem to us but it does unnecessarily complicate the procurement process. It has led us to develop two distinct classes of small business set-aside - one reserved by statute and one reserved through action of the contracting officer. Each requires a separate determination and different negotiation authorities. The positive action of making a set-aside for small business should not be this complicated. We would recommend deletion rather than amendment of Section 15(j).

As I indicated before, Secretarial appeals concern us. They impose a workload and delay the procurement process. The bill, by amending Section 15(a) of the Act creates a number of new appeals other than those I have already mentioned. It has the potential for involving the Secretary of the Air Force and the Administrator of the Small Business Administration in matters appropriately decided at the contracting activity level. These new appeals cover sole source decisions, contracting out decisions, labor surplus area set-aside decisions and the new category of set-asides for procurements of $2 million or less.

Another concern centers on the proposed amendment of sub-Sections 15(d)(e) and (f), of the Act. The Air Force strongly opposes these provision which are designed to negate the "Maybank Amendment". The DoD has consistently supported the "Maybank Amendment", and this position has been adopted by the President. This is reflected in his letter to the Chairman of the Senate and House Armed Services and Appropriations Committees dated July 11, 1983, which furnished the report on the "Maybank Amendment" test being conducted by the Defense Logistics Agency as required by Public Law 97-252 and Public Law 95-377. Total labor surplus area set-asides will reduce competition among defense suppliers, increase prices for defense purchases and discriminate against small firms not in labor surplus areas. None of these conditions are acceptable to the Air Force. We recommend that these provisions be deleted.

We further oppose the proposed amendment to Section 15(g) which deals with goals. The Air Force is opposed to the addition of new goals for subcontracting and for labor surplus area awards. The subcontracting goals are unnecessary because of the individual subcontract plan goals required by P. L. 95-507 and would require the creation of a new even more far reaching and expensive data collection system for subcontract awards. Our same comments made concerning LSA set-asides apply to LSA goals.

Subsection 9(g)(2) revision. The current provision for requiring SBA agreement or goals is not working. It delays their establishment to the point where the final goals are meaningless. Agencies alone should set their goals which are subject to Congressional oversight.

Subsection (g)(3) revision. Again, this requires subcontract goals which we oppose for the reasons indicated. Also, we object to the requirement to express goals as a percentum of total awards. The reason for this is that total awards can and do fluctuate widely based upon actual Congressional appropriations and apportionments. We have no control over this. A much more realistic goal is actual dollar amounts awarded to small and small disadvantaged firms.

Subsection (g)(4) revision. This is totally unrealistic and should be deleted in its entirety as it would be counter-productive to the whole purpose of having goals. Goals must be realistic and achievable to be effective. Arbitrary political goals will only stir resentment on the part of the people who must carry them out when they know that the goals can never be less than the preceding year.

Subsection (g)(5) revision. It is impossible to establish realistic and achievable goals until the preceding year's results are known. Sixty days is not enough time for us to have the statistics on over four million Air Force procurement actions. We recommend deletion of this provision. It is unnecessary.

Mr. Chairman, we want small businesses involved in Air Force buys. We have small business specialists assigned to every buying office. These personnel aid, counsel and assist small businesses and serve as the small business advocate in disagreements with contracting personnel. Both our small business and contracting personnel are professionals and have the expertise necessary to make maximum opportunity for small business participation. We would prefer to leave most of the decision making authority with those charged with the responsibility. We would prefer to depend on their judgements and abilities to a greater extent than would be permitted under this bill.

Thank you for the opportunity to present Air Force views on this matter.

Mr. BEDELL. General.

TESTIMONY OF MAJ. GEN. JOSEPH H. CONNOLLY, DEPUTY DIRECTOR FOR ACQUISITION MANAGEMENT, DEFENSE LOGISTICS AGENCY, DOD, ACCOMPANIED BY BRIGADIER GENERAL SKEEN, COMMANDER, DEFENSE INDUSTRIAL SUPPLY CENTER, DOD

General CONNOLLY. Mr. Chairman, I am Maj. Gen. Joseph Connolly, Deputy Director for Acquisition Management of the Defense Logistics Agency. I am pleased to appear today before the General Oversight and Economy Subcommittee to discuss the acquisition of spare parts for military service support.

I have over 28 years experience in defense procurement, including appointment as a small business specialist. Today, when focusing on spare parts, the Defense Industrial Supply Center [DISC], a major DIA inventory control point, is often mentioned.

I brought Brigadier General Skeen, commander of DISC, with me this afternoon, and if I cannot answer your specific questions on DISC operations and he will assist me.

I have provided a formal statement which I trust is responsive to your request. With your concurrence, I will submit it for the record and make some summary comments at this time.

Mr. BEDELL. Thank you very much, General.

General CONNOLLY. My formal statement provides some very important statistics on the policies, programs, and accomplishments of the Defense Logistics Agency. Among other things, I pointed out the DLA is a major contributor to military readiness and at the same time to the general business welfare of the small business community.

Of particular interest is the fact that DLA is not a small player in logistics support and that its performance is unparalleled in the Federal Government. In the performance of our mission, it is important to note that almost half the dollars we award under our contracts goes to small business, 49.5 percent which equates to $5.5 billion through the 11 months of the fiscal year 1983.

This is no accident. But a concerted effort, and our records show that we have set goals and attained or exceeded those goals for several years running. I believe that we are way out front in the DOD on small business programs.

We plan to do even better in the future and have many programs and efforts underway which will certainly enhance our achievements. Not only are we the DOD leader in small business support, we are also the leader in competitive contracting and have completed 82 percent of our awards overall.

After taking out fuel, medical, subsistence, clothing and textiles, competition is 67 percent for our four hardware centers which buy spare parts. That performance is substantially above the track record of the services.

In recent months there has been much controversy surrounding what is referred to as the consumable item transfer program. Under this transfer, DLA was assigned over 200,000 additional consumable items previously managed by the services.

This quantity of items represented only about a 10-percent increase in the number of items we managed. We are well equipped to handle these items; prior to the transfer, we managed over 2 million items and now manage 2.3 million.

This figure represents 57 percent of all national stock numbers in the Federal catalog system. Our expertise is concentrated on consumable item management and we are well equipped to handle the items.

I might point out that of the items transferred to us by the services, 21.3 percent were coded as competitive; 48.2 percent were coded as noncompetitive; and 30.5 percent were not coded at all.

Our initial buy of these items was at the 34-percent competitive rate overall, and we are working to improve that number. A recent DOD IG investigation of allegations about the lack of competition and small business participation at DLA was proven unfounded. Mr. Vander Schaff mentioned that report this morning and indicated he would provide it for the record.

The DOD IG did comment that we be required to fix an administrative problem which is now underway. We are on the right track. The centralization of consumable items within DLA will increase the economies associated with centralized management.

This morning a question was asked about the number of engineers in DLA. I have preliminary figures. We have 150 engineers in our four hardware centers. We'll provide the exact number for the record.

[The information referred to above follows:]

General CONNOLLY. We have 150 engineers in our four hardware centers and they are in the disciplines of general, mechanical, electrical, materials and chemical engineering. Additionally, we have 709 engineering technicians, equipment specialists, packaging specialists and quality assurance specialists that support that engineering effort.

General CONNOLLY. We have 420 engineering technicians and equipment specialists that support this engineering effort.

In supply performance, our basic mission of supporting readiness to the Armed Forces, we also earn high marks. Our supply availability overall is 91.7 percent and for weapon systems related items, it's 92.3 percent. This means that we get a request for a supply item from the services, we have it on hand in our bins in nine out of ten cases and we receive approximately 28 million demands or requisitions from the service on an annual basis.

Whenever we go around the world and talk to the commanders of our combat forces, they express complete satisfaction with our support. Earlier this morning, one of the witnesses commented that establishing the Defense Logistics Agency was a blunder.

I might ask the committee to go back in your archives and look at the hearings that were conducted here in the early 1960's. I think they're collectively called the Hébert committee hearings, and it indicated that the services were competing amongst themselves for consumable items, paying all different prices, getting different quality levels, and paying high prices, that was one of the reasons leading to the establishment of the Defense Supply Agency.

Also, I might point out the DLA is uniquely qualified to manage consumables. We dedicate our whole effort to that as opposed to the services where the logisticians in the services have to manage the systems. They're trying to develop a logistic support plan for those systems. They have to manage the reparables for those systems, whereas we worry just about consumables. We have no conflicting priorities like they do in the services. If I was a logistician in the military departments now, I would look real hard to transfer more consumables to DLA, particularly the small dollar value consumables.

In addition, the Secretary of Defense has directed prompt and decisive action to implement a comprehensive program; and we fully support all these initiatives, and we will further improve competition, spare parts pricing, and small business participation.

I would also like to point out that we are probably the leaders in the area of automated procurement systems in the Federal Government. Approximately half of all our awards are made through the automated process. This has made it possible for us to manage a large portion of items and do it faster, more effectively, with fewer personnel.

However, with all the recent publicity surrounding spare parts procurement, newly proposed legislation endangers these deficiencies by imposing increased reviews, approvals, and outside agency intervention. While these are well-intentioned and designed to protect the taxpayer's dollar, they do decrease our automation capability through requirements for manual handling.

We certainly support meaningful programs and goals to improve small business participation in Government contracting. We are also concerned that the method sometimes proposed may impair our ability to expand, and enhance our operational effectiveness and efficiency through automation.

Under the Secretary of Defense's guidance, we are making changes to the acquisition of spare parts. I am convinced that we will continue to improve competition and small business awards by seeking out those instances where we have a lack of competition and aggressively pursue them on a continuing basis.

We need time to implement improvements to get our house in order, and our future improvement plans will do just that.

I am pleased at this time to answer any questions you may have.

[Major General Connolly's statement follows:]

Prepared Statement of Maj. Gen. Joseph H. Connolly, Deputy Director for Acquisition Management, Defense Logistics Agency, DOD

Mr. Chairman, I am Major General Joseph H. Connolly, Deputy Director of the Defense Logistics Agency, I am pleased to appear today before this Subcommittee to discuss the role of the Defense Logistics Agency in spare parts support for the Armed Services. I will discuss the procurement policies and procedures utilized by this Agency and its efforts in supporting the small business community.

First, I would like to provide a brief description of DLA and its mission. The Defense Logistics Agency was chartered in 1961 to provide worldwide support for commercially available items to the Military Services. During its 23 years of partnership with the Services, DLA responsibilities and our role in supporting the DoD community has grown and increased both quantitatively and qualitatively and expanded to support Departments and Agencies outside the DoD as well. Currently, we employ nearly 50,000 people to operate six inventory control points, six consolidated storage activities, nine contract administration service regions and five service centers. We furnish supply and contracting support for over 2.3 million items which represents 57 percent of all national stock numbers. This is more than two-and-one-half times the number managed by the Air Force, almost four times the number managed by the Navy, seven times the number managed by the Army and 101 times the number managed by the Marine Corps.

The Defense Contract Administration Services Regions furnish contract management and payment services, not only for DLA, but to all other DoD contracting activities as well as other Government agencies such as NASA and Department of Energy. For Fiscal Year 1982, the Defense Contract Administration Services Regions managed over 63,000 DLA contracts and over 240,000 Military Department contracts with a total face value of over $130 billion and pay invoices of $30 billion a year. In addition, our inventory control points pay invoices amounting to over $12 billion annually for a combined total of over $42 billion. Of this combined total, nearly 64 percent of the payments are automated. Our average on-hand invoices constitute 5.6 work days of workload. DLA is also responsible for disposal of surplus DoD personal property, managing the Federal Catalog System and maintaining visibility of industrial plant equipment owned by DoD. We also manage the Defense Technical Information Center which serves as a central repository for Defense scientific and technical data.. Overall, the total DLA organization consists of many sites worldwide. The consolidation of these mission activities in DLA resulted in an initial payoff reduction of 7,700 personnel spaces and an expenditure ceiling reduction of $67.5 million annually. In addition, since 1974, our productivity ratio of workload to resources has increased by 28 percent. All of these activities have been operated successfully and economically for many years.

I HAVE ALREADY MENTIONED THAT DLA MANAGES SOME 57 PERCENT OF ALL NATIONALLY STOCK NUMBERED ITEMS USED WITHIN THE DEPARTMENT OF DEFENSE. BUT IN OUR BUSINESS THE NUMBER OF ITEMS MANAGED IS NOT THE BEST INDICATOR OF THE SIZE AND SCOPE OF DLA'S CONTRIBUTION TO COMBAT READINESS. A BETTER INDICATOR IS THE NUMBER OF REQUESTS FOR SUPPORT OR REQUISITIONS PROCESSED. DURING THE FIRST QUARTER OF FY 82, DLA PROCESSED MORE THAN 70 PERCENT OF ALL REQUISITIONS SUBMITTED TO THE DOD WHOLESALE SUPPLY SYSTEM BY OUR MILITARY CUSTOMERS. BY THE END OF THE THIRD QUARTER OF FY 83, THAT SHARE HAD RISEN TO 73 PERCENT. THIS IS MORE THAN 6 TIMES THE VOLUME OF BUSINESS DONE BY THE AIR FORCE, 11 TIMES THE VOLUME OF BUSINESS DONE BY THE NAVY, AND 8 TIMES THE VOLUME OF BUSINESS DONE BY THE ARMY AT THE WHOLESALE LEVEL. SUCH FIGURES DEMONSTRATE THAT DLA IS A MAJOR CONTRIBUTOR ON A VOLUME BASIS TO THE OVERALL READINESS OF OUR MILITARY FORCES. THIS SUPPORT INCLUDES SUPPORT OF SIGNIFICANT WEAPONS SYSTEMS AS WELL AS FOOD, CLOTHING, MEDICINE AND PETROLEUM.

THE CLOTHING, SUBSISTENCE AND MEDICAL SUPPLY TYPE ITEMS ACCOUNT FOR ONLY 59,000 ITEMS. OUR FUEL COMMODITY AMOUNTS TO ONLY SOME 200 ITEMS. THE BULK OF THE 2.3 MILLION ITEMS DLA MANAGES IS REPAIR PARTS USED ON THE SERVICES' WEAPONS SYSTEMS. IN OCTOBER 1981, WE BEGAN A CONCENTRATED EFFORT TO WORK WITH THE SERVICES TO IDENTIFY THE END ITEM APPLICATION OF ALL THE ITEMS WE MANAGE. AT THAT TIME, THE SERVICES HAD IDENTIFIED ABOUT 250,000 ITEMS AS APPLICABLE TO SPECIFIC WEAPONS SYSTEMS AND REQUIRING SPECIAL CONSIDERATION IN OUR INVESTMENT STRATEGY. THAT NUMBER GREW TO

455,000 BY 31 AUGUST 1983 AND IS STILL GROWING. WE EXPECT TO HIT 900,000 BY THE END OF THE CALENDAR YEAR. THESE ITEMS RANGE FROM THE MOST MUNDANE - NUTS, SCREW, BOLTS, RESISTORS, CAPACITORS, AND THE LIKE, TO THE TECHNICALLY COMPLEX - FUEL PUMPS COMPRESSORS, GENERATORS, CIRCUIT BOARDS, SEMI-CONDUCTORS, RADAR COMPONENTS, AVIONICS, ETC. SOME SPECIFIC EXAMPLES OF THE WEAPONS SYSTEMS WE SUPPORT ARE THE PERSHING MISSILE SYSTEM, POSEIDON SUBMARINE SYSTEM, AIR LAUNCH CRUISE MISSILE SYSTEM, MINUTEMAN MISSILE, AND AIRCRAFT SUCH AS THE F16, F15, F14, B52, A10, C5, C141, UH-1, AND F18. AS IS EVIDENT HERE, THE ITEMS MANAGED BY DLA ARE AS IMPORTANT TO THE OPERATIONAL READINESS OF THE SERVICES AS ANY CONSUMABLE ITEM MANAGED BY THE SERVICES THEMSELVES. THIRTY-SEVEN PERCENT OF THE REQUISITIONS WE PROCESS ARE IDENTIFIED BY THE SERVICES AS THE HIGHEST PRIORITY REQUIRING SHIPMENT WITHIN 3 DAYS OF RECEIPT BY DLA.

BUT WHAT IS MORE IMPORTANT THAN DOING THE LION'S SHARE OF BUSINESS IS THAT WE DO A SUPERB JOB OF MANAGING THE ITEMS. DLA OVERALL HAS A SUPPLY AVAILABILITY THAT STANDS AT 91.7 PERCENT, WHICH IS HIGHER THAN THE RATES ACHIEVED BY ANY OTHER DEPARTMENT OR AGENCY. DLA SUPPORT FOR IDENTIFIED WEAPONS SYSTEMS ITEMS IS EVEN BETTER WITH A SUPPLY AVAILABILITY OF 92.3 PERCENT IN AUGUST 1983. IF WE BREAK THIS DOWN BY INDIVIDUAL SERVICES, AS OF MARCH 1983, OUR SUPPORT TO THE ARMY WAS 93.7 PERCENT, THE NAVY 91.6 PERCENT, THE AIR FORCE 91.9 PERCENT AND TO THE MARINES 93.3 PERCENT.

AS YOU CAN SEE, DLA IS NOT NEW TO THE WEAPONS SYSTEM SUPPORT BUSINESS AND HAS COMPILED AN IMPRESSIVE RECORD OF SUPPORT. THERE ARE REASONS FOR DLA'S BETTER PERFORMANCE. DLA IS RESPONSIBLE SOLELY FOR THE MANAGEMENT OF CONSUMABLE ITEMS. WE DO NOT MANAGE MAJOR END ITEMS AND WE DO NOT MANAGE REPARABLES. ALL OF OUR ENERGIES AND RESOURCES ARE FOCUSED ON THE MANAGEMENT AND SUPPLY OF CONSUMABLE ITEMS UNDER THE DEFENSE STOCK FUND. THERE ARE NO DISTRACTIONS OR COMPETITION AT OUR INTERNAL BUDGET TABLE. OUR ADP SYSTEMS ARE GEARED SPECIFICALLY TO MANAGING CONSUMABLES. WE HAVE NO CONFLICTING PRIORITIES AS DO THE SERVICES WHO HAVE TO BE CONCERNED WITH END ITEMS, REPARABLE ITEM MANAGEMENT, PROVISIONING SYSTEMS AND COMPLEX WEAPONS SYSTEM DESIGN IN ESTABLISHING PRIORITIES FOR ADP ENHANCEMENTS AND OTHER RESOURCES.

BUT SUPPLY PERFORMANCE IS NOT THE ONLY AREA IN WHICH DLA EXCELS. WE DO NOT ACCOMPLISH THESE GOALS ON THE BASIS OF SUPPLY PERFORMANCE ALONE. ALL THESE EFFORTS INCLUDE AND REQUIRE SUPPORT FROM THE BUSINESS COMMUNITY AS WELL. UP FRONT, AND A PRIME CONSIDERATION, IS COMPETITION AND SUPPORT TO THE SMALL BUSINESS COMMUNITY. OVERALL, 82 PERCENT OF ALL OUR PURCHASES ARE MADE COMPETITIVELY. IF WE EXCLUDE PURCHASE OF FUELS, THE FIGURE IS 74 PERCENT, WHICH IS HIGHER THAN ANY OF THE SERVICES. IN ADDITION, IN FY 1982, OVER 45 PERCENT OF DLA DOLLARS WERE AWARDED TO SMALL BUSINESSES. FOR THE FIRST 10 MONTHS OF FY 1983, AWARDS TO SMALL BUSINESS HAVE ALREADY REACHED 49.5 PERCENT. THE CLOSEST ANY OTHER MAJOR DOD PROCUREMENT ACTIVITY HAS COME IS THE ARMY WITH 21.5

PERCENT. AS A MATTER OF STATISTICAL RECORD, DLA IS THE ONLY MAJOR DoD PROCUREMENT ACTIVITY TO INCREASE ITS SMALL BUSINESS AWARDS DURING FY 1983. WE HAVE MET OR EXCEEDED OUR SMALL BUSINESS GOALS EVERY YEAR SINCE 1978.

THESE ACCOMPLISHMENTS DO NOT JUST HAPPEN, WE MAKE THEM HAPPEN. THE SMALL BUSINESS PROGRAM RECEIVES ATTENTION FROM OUR TOP LEVEL MANAGERS AND EXECUTIVES. FREQUENT AND CONTINUED EMPHASIS IS PLACED ON COMPETITION AND SMALL BUSINESS IN CONFERENCES HELD BETWEEN THE COMMANDERS OF OUR PRINCIPAL BUYING ACTIVITIES. OUR FLAG RANK OFFICERS ALSO PARTICIPATE IN SMALL BUSINESS CONFERENCES AND VISIT MAJOR MARKETING AREAS THROUGHOUT THE UNITED STATES TO MEET WITH INDUSTRY AND INDUSTRY ASSOCIATION REPRESENTATIVES. ONLY RECENTLY, DURING SEPTEMBER 1983, THE COMMANDER OF THE DEFENSE INDUSTRIAL SUPPLY CENTER IN PHILADELPHIA PARTICIPATED IN AN OPEN FORUM IN DALLAS, TEXAS. THE EXCHANGES WITH INDUSTRY IN THAT FORUM DREW PRAISES FROM THE SMALL BUSINESS COMMUNITY. IN ADDITION, WE HAVE OVER 100 SMALL AND DISADVANTAGED BUSINESS UTILIZATION SPECIALISTS ASSIGNED TO OUR VARIOUS SUPPLY CENTERS, CONTRACT ADMINISTRATION REGIONS, DEPOTS, SERVICE CENTERS, ETC. THESE SPECIALISTS HAVE AN OPEN DOOR POLICY ON SMALL BUSINESS BY SEEKING OUT AND RECEIVING SMALL BUSINESSES AND SMALL BUSINESS COUNSELING. WE ASSIST THOUSANDS OF FIRMS EACH YEAR ON PRIME AND SUBCONTRACT OPPORTUNITIES. WE ALSO HAVE ASSIGNED SMALL BUSINESS TECHNICAL ADVISORS AND COMPETITION ADVOCATES IN ALL SUPPLY CENTERS. WE PARTICIPATE REGULARLY IN PROCUREMENT CONFERENCES; 197 CONFERENCES IN FY 82 WITH ATTENDANCE BY OVER 40,000 BUSINESS REPRESENTATIVES.

Many of these are also attended by Members of Congress. Our small business specialists, among other duties, are responsible for identifying and systematically disseminating information on items for which there is limited or no competition. We have recently made efforts at some of our hardware centers to expand this effort considerably. The specialists are also responsible for establishing management objectives to further small business interests including objectives to reduce paperwork burdens and strengthen small business subcontracting. We fully support project Outreach which is a concerted effort to identify and attract new small business firms in order to increase competition and lower defense costs, expand the industrial base, and create jobs to abate unemployment. We have even gone to the effort to install toll-free phones on an experimental basis at one supply center and one service center to facilitate inquiries from small business firms. In March of this year, we invited representatives of major contractor associations (Aerospace Industries, Electronics Industries, National Security Industries, American Defense Preparedness) to participate in a program to explore new and creative ways to further assist small business in subcontracting. In 1978, we established the Defense Logistics Agency Award for Contractor Excellence in assisting small disadvantaged business firms. Each year we confer this recognition on a regional and national basis to the top nine firms with the most outstanding subcontracting record.

In all the recent issues surrounding the acquisition of spare parts by the Government, much has been said about DLA and what is referred to as the "Consumable Item Transfer." The idea of the transfer did not originate with DLA, we are the executors of DoD policy and decisions. In July 1981, the Deputy Secretary of Defense directed that 200,000 items be transferred from the Military Services to DLA as a test to determine whether additional items should be transferred at a later date. DLA was subsequently tasked to lead the effort to develop a plan for accomplishing the Deputy Secretary's direction. That plan called for the transfer of some 30,000 items per month beginning in April 1982 from the 13 Service inventory control points to four DLA supply centers. The transfer was completed in November 1982. During the transfer, 906 personnel spaces were identified by the Services as related to the transferred items. These resources were not removed from the Services, rather, the Services were allowed to retain the personnel spaces and reapply them to other workloads. DLA added 403 spaces to manage the transferred items. This transfer has received considerable attention in recent months. The attention was brought about by a significant problem occurring at one of our supply centers. These problems occurred as a result of fraudulent acts of a few companies and individuals which resulted in the delivery of over 4,800 nonconforming or substandard items to DLA. Action was taken by the supply center involved to forestall future occurances. The action taken was somewhat of an overreaction which received considerable attention in the news media and by industry associations. The problems did not result from the consumable item transfer but, since they occurred almost simultaneously, they were associated with the transfer. The addition of 200,000 items represented only about a 10 percent

INCREASE IN OUR NUMBERS OF ITEMS MANAGED. THIS WAS CERTAINLY WITHIN OUR CAPABILITY TO MANAGE SINCE IT WAS A RELATIVELY SMALL NUMBER AND, AS I MENTIONED PREVIOUSLY, DLA IS THE EXPERT IN CONSUMABLE ITEM MANAGEMENT AND WE STAND ON OUR RECORD. TO FURTHER THE EFFORTS OF DOD, THE SECRETARY OF DEFENSE HAS PERSONALLY TAKEN AN ACTIVE ROLE AND HAS DIRECTED THAT DOD DEPARTMENTS AND AGENCIES TAKE PROMPT AND DECISIVE ACTIONS TO IMPLEMENT SEVERAL COMPREHENSIVE INITIATIVES. THESE INITIATIVES INCLUDE INCREASED COMPETITION, SMALL BUSINESS PARTICIPATING AND IMPROVED SPARE PARTS PRICING. DLA HAS ALREADY BEGUN IMPLEMENTATION ON MANY AND HAVE OTHER PLANS IN DEVELOPMENT. WE FULLY SUPPORT THOSE INITIATIVES AND ARE MOVING TO PLACE THEM INTO EFFECT AS SOON AS POSSIBLE. HOWEVER, BECAUSE THESE AND OTHER ISSUES SURROUNDING SPARE PARTS PROCUREMENT HAVE RECEIVED NATIONAL ATTENTION IN THE LAST YEAR. THERE HAVE BEEN MANY NEW LEGISLATIVE PROPOSALS WHICH REQUIRE CHECKS, BALANCES AND REPORTING OF ACTIONS AND PROGRESS. WHILE THE INTENT BEHIND ALL THESE IS DESIGNED TO PROTECT AND SPEND WISELY THE TAX PAYERS DOLLAR IN BUYING SPARE PARTS, ONE OF THE BASIC ASPECTS OF GOVERNMENT PROCUREMENT, IN SOME CASES, IS BEING OVERLOOKED. THAT IS: HOW MUCH DOES IT COST TO SPEND THE MONEY?

WE IN DLA ARE HEAVILY AUTOMATED IN THE PROCURMENT PROCESS; MORESO, PROBABLY, THAN ANY OTHER AGENCY. HALF OF ALL PURCHASE ACTIONS WE MAKE ARE AUTOMATED. WE ALSO HAVE MANY PROGRAMS IN PROCESS AND ON THE DRAWING BOARD TO INCREASE OUR AUTOMATION AND BRING IT TO THE STATE-OF-THE-ART. THIS WILL ENABLE US TO DO THE JOB FASTER, BETTER AND CHEAPER. THIS ASPECT, AS I SAID, IS OFTEN OVERLOOKED. THE MORE REVIEWS OF PROCUREMENTS ARE REQUIRED; THE MORE HIGHER LEVEL APPROVALS ARE NEEDED; THE MORE OUTSIDE AGENCY INVOLVEMENT REQUIRED; THE LESS EFFICIENTLY THE SYSTEMS WORK. ALL THESE MUST BE ACCOMPLISHED OUTSIDE OUR AUTOMATED SYSTEMS WHICH SIGNIFICANTLY INCREASE MANUAL HANDLING AND DELAY AWARD ACTIONS. WE RELY HEAVILY UPON AUTOMATED SYSTEMS TO DO THE GOOD JOB WE DO. IF THESE SYSTEMS ARE RENDERED INEFFECTIVE BECAUSE OF THE ADDITIONAL REVIEWS, CHECKS AND BALANCES, THEN WE MAY PAY LESS FOR A SPARE PART, BUT MORE THAN NEGATE THE SAVINGS THROUGH INCREASED OVERHEAD.

Mr. BEDELL. Thank you very much, General. Just so you know that we don't waste our time here, while we've been out to lunch, congratulations, Mr. Addabbo, I understand you've got a new granddaughter.

Mr. Addabbo?

Mr. ADDABBO. Thank you, Mr. Chairman. General Connolly, how long have you been Deputy Director?

General CONNOLLY. I've been Deputy Director of DLA for 9 months; previous to that I was the Director of Contracting and Manufacturing Policy for the U.S. Air Force.

Mr. ADDABBO. How long were you there?

General CONNOLLY. I was there for almost 4 years.

Mr. ADDABBO. As I pointed out in this morning's hearing, the Defense Appropriations Committee has over the years pointed out the problems in small business procurements, spare part procurements, et cetera, in various reports from 1968, 1969, right through 1983.

We have raised that question. Have you seen or have you in either one of your categories or departments seen any directives from DOD to correct it, to possibly achieve greater competition for small business in spare parts.

General CONNOLLY. Well, over the years, I think, as far as small business goes, there's been a lot of direction to improve procurement awards to small business firms and small and disadvantaged firms by establishing goals and some of the goals were very ambitious. In the small business area, I think the direction has been solid.

Mr. ADDABBO. Then who has been failing to carry out the direction? As I pointed out earlier, when the Deputy Under Secretary of Defense for Acquisition Management was here, we see a degradation of small business purchases. We see no breakup of real competition in spare parts as a result. We hear horror stories.

That is the only reason why I made the speech on Defense Appropriations after the many years I've been on the committee, but it just went by the wayside because the news media never picked it up and it was never pointed out that there were so many wasteful dollars being spent.

So, today we are here and Secretary of Defense Weinberger comes up with a directive in July and makes some formal statement on it in August, and then we heard this morning that finally Deputy Secretary Thayer will have a meeting with the Secretaries on October 13, where they're going to finalize, et cetera.

That's today, but we've been doing this and you've been in the business all these years. Why do we see a diminution of small business involvement, if you say there are directives? Then, someone downstairs is not reading the directives, and not doing anything with it?

General CONNOLLY. I would say we're doing something with the directives.

Mr. ADDABBO. Other than throwing them away; what are you doing?

General CONNOLLY. Oh, no, we don't throw them away.

Mr. ADDABBO. Put them on the bulletin board.

General CONNOLLY. I think we all try very hard to meet the established goals.

Mr. **Addabbo**. And now you tell me that if I read the statistics right, that the administration or whoever the power may be upstairs, that he's the one who reduced the number of thousands you're supposedly to spend on small business. I mean, we hear different.

General **Connolly**. Yes.

Mr. **Addabbo**. So, when they tell you, never mind what we're telling you, you do what you have to do and don't worry about small business?

General **Connolly**. No, they don't say that. They establish goals and then you try to meet them and we try to better them. I guess one of the problems is the way we calculate the performance; it's based on a dollar basis. I think if you look at the number of awards to small business, you'd see a different picture.

Mr. **Addabbo**. Well, again the numbers—because they did that this morning and as they pointed out numbers this morning, again, the Department of Defense procurement and small business and other business firms October 1982, 1983, that diminution from 19 percent to 16 percent over the years, percentage of the total of small business concerned building to 1980, and this administration takes over in 1981; and you start seeing 1981, 38; 1982, 37; so where does the fault lie? Where does the fault lie?

General **Connolly**. Well, I think over the last few years, all the services have been modernized, the forces, as you well know, and those are the big dollars. Because our statistics are based on dollars, those big programs increase the total number of dollars. Small business, at least in my agency, they're growing slowly, when you relate it to the large rise in dollars, you're always going downhill.

Mr. **Addabbo**. That's what I'm afraid of. Why are we spending more and doing less with small business. We get more and more sole sourcing, less and less breakout, and less and less activity.

I mean, we have almost doubled in the last 5 years, we have almost doubled our defense appropriation. We've gone from about $140 billion to $280 billion. We're going to spend, as I pointed out this morning, over $60 billion on spare parts. We're going to be spending $60 billion, and you say, we're trying.

I mean, over the years we spend not a million, not $2 million; we're talking about billions of dollars being spent and business as usual. The fellow says, hey, I'm going to be in this spot for 3 years, the other guy did it this way, I'm not going to make waves; so you continue to do it.

You as the general in your position, do you have any responsibility to reappropriate? We appropriate the money for it. The Congress appropriates the taxpayers' dollars. We appropriate it. We say, when we appropriate that money that in order to get better dollars and better national defense, you should make these corrections. You should look for more small business involvement. You should look for more breakout.

You, in your position, that doesn't tell you anything? That's no direction to you to do this in DLA or any department or is that just words of the Congress, keep the taxpayers' dollar; that's just words, they don't mean it. I'll be out of here in 3 years, so I won't worry about it, let the next guy worry about it. Well, that Congressman won't be around, so I don't have to worry about it.

General CONNOLLY. No, I don't think that's true.

Mr. ADDABBO. Then what happens with these words? When we show you, dollar for dollar over the years. We've had this many years. Every administration has had this problem, because again it's downstairs, the doer; the doer. What happens to this direction?

General CONNOLLY. Well, it comes down to us at the working level. We try to do our best within the system we have to get more competition and to place more awards with small business. I think if you look at the absolute amount of dollars going to small business, I haven't seen the figures recently, but that may be, in dollar terms rising as well. But I don't know if it's rising as fast as the increase in the defense spending.

Mr. ADDABBO. Well, you go from $1 to $2 you increased 100 percent. What are you doing with it? What do you do with the record? What do you do that we don't run into this case again? This is waste of defense dollars. This destroys our defense dollars. We are so short in conventional weaponry, because we are wasting the money on this kind of buying. What are we doing? What have you done? What are you going to do different tomorrow, so that next year, we don't have to read this horror story again?

General CONNOLLY. I can only speak for my own agency but as I said, we compete 82 percent of our dollars and we're going to try to do better. We've established a goal to increase that by 5 percent over the next 2 years.

We're trying to strengthen and innovate in our competition advocate program throughout the agency. We're going to establish breakout goals. We're trying to tie together our competition.

Mr. ADDABBO. How are you going to enforce it? I heard that statement before. I bet if I take out the hearing record, how are you going to enforce it, how are you going to make sure that the man who is operating, that individual is going to listen to you? How are you going to enforce it?

General CONNOLLY. Well, what we're going to try to do is when we give a goal to one of our subordinate commanders, that's part of the mission that he's supposed to accomplish and we track it.

Mr. ADDABBO. I heard about it; we heard from Dr. Amlie this morning. He said the goals are part of the problem, because they have to make a goal, they have to show productivity. They're not worried about how the dollars are being spent. They're worried about productivity.

General CONNOLLY. We're talking about different goals. He's talking about goals to get procurements off your desk or get them out the door. What I'm talking about is breakout goals and small business goals and competition goals.

Mr. ADDABBO. How are you going to assure that? Do you have enough personnel? Have you asked for additional personnel?

General CONNOLLY. We're reviewing that right now in response to the Secretary of Defense.

Mr. ADDABBO. I heard that famous word, now review and study. I'll hear that again next year: review and study.

General CONNOLLY. We are trying to determine the impact, and how we're going to respond to the Secretary of Defense's direction.

Mr. ADDABBO. When will you respond?

General CONNOLLY. We're in the process of preparing that right now.

Mr. ADDABBO. Will you send this committee a copy of it?

General CONNOLLY. I certainly will.

[The information referred to above follows:]

In a recent briefing to the Office of the Deputy Secretary of Defense, Defense Council on Integrity and Management Improvement (DCIMI), we stated we had tentatively identified a conservative requirement for 635 additional workyears to implement new efforts and expand the various programs in process. We have recommended 155 additional workyears in both fiscal year 1984 and fiscal year 1985 for a total of 310. Because of inadequate time to fully scrub the requirement and insufficient resource flexibility to cover the full requirement, we did not recommend the full 635. As we are able to ascertain the impact of program implementation and identify all actions required we will refine this number.

Mr. ADDABBO. I've been on this committee now, I think, 15 years; we've held procurement hearings way back, and I've been on the Defense Appropriations Committee 14 years. I write these reports, and that's why I had to ask my chairman, Parren Mitchell, for this legislation because we can't get your attention.

General CONNOLLY. You look at our statistics in DLA, and you'll see that there is competition growth. I think the success we've had is that we manage our agency with a management by objective program. Our subordinate managers are attuned to this program. All the people down the line are attuned to the program.

Mr. ADDABBO. One final question. Much of the problem, as I raised this morning, is the question of buying and who's responsible. Much of the problem has been putting a catalog number on an item rather than the descriptive word on it. Will your office be looking into that, the correction of that, so that the man says, why am I paying $400 not for item XYZ, but why am I paying $400 for a clawhammer? Will you be looking to changing the catalog descriptions? Or a better description?

General CONNOLLY. Yes, we're going to try to improve breakout and to try to get more technical data to work with OEM's. We're thinking about designating one of our supply centers to work with either one or more OEM's and try to get data from them—

Mr. ADDABBO. Don't think about it; do it. Do it, and then let's see what happens. If you think about it, you think about it 2 years from now, when a different general is going to be sitting there. I just saw the problem. I'm going to think about it for another 3 years; and it never changes.

General CONNOLLY. I can speak only for DLA——

Mr. ADDABBO. After you've been there 9 months, you've got 2 more years in the spot. So, within that realm, you will be in front of, this committee and my other committee, maybe a couple of times. So, let's see what happens.

General CONNOLLY. Well, I can tell you, we're going to be taking action. You know my boss, Admiral Grinsted. He is an action-oriented guy, and I can assure you that he intends to continue to press on.

Mr. ADDABBO. OK. Thank you.

Mr. BEDELL. I'm not sure if I understood the question, the answer—I understood the question was whether or not on purchasing tapes that they have, you're going to institute something so the buyer will know what it is he's buying. Was that not your question?

Mr. ADDABBO. Yes.

General CONNOLLY. What we try to do now is, we try to train our buyers, they're oriented toward commodity areas right now. We train them. We do a pretty good job but we have to do more training. When we orient toward commodities——

Mr. BEDELL. That's not really the question the Chairman would ask, and I think Mr. Addabbo had asked you, and that is, are you going to put information on that, so when the buyer is purchasing the clawhammer, it will be properly identified so that he knows it's a clawhammer and not just item 493672?

General CONNOLLY. Well, the items are in the catalogs now.

Mr. BEDELL. That's not the question. As I understand it, the buyer punches a button, and an item comes up on the screen. He's supposed to order 300 of these items, let's say, and it comes up on the screen as item 73594, $563 a piece, and he orders it without knowing if he's ordering a clawhammer that looks like this.

I think the question many would ask is, whether anything is happening to change that, so the guy knows that he's buying a clawhammer. I think that would be something we'd like to know, and if you can, I'd like to have an answer.

General CONNOLLY. Yes, let me ask General Skeen to answer that; he's a little closer to the problem.

General SKEEN. Let me explain it to you, sir, how we do it is this. As it was indicated earlier this morning, you have several people involved. You have inventory managers who determine buyers' requirements, who buy the item, and you have technicans that look at the technical aspects of the item.

When the buyer goes to buy the item, he can call up on the screen or he can get a printout of the information that he needs on the item.

If there's any question about the technical aspects of the item, he goes to the technician who has access to all of the drawings that are available to us; and he can look at more than just the description; he can look at the drawing. He can go to the Defense Logistics Services Center in Battle Creek, and he can pull out the entire TIR, the total item record. There's a tremendous amount of information that is available within that cataloging system. So it is available to the buyer; it is available to the technician.

Mr. BEDELL. If I were operating that system, I would think that you or the buyer, would want adequate information on that screen, so that he knew what he was buying.

Now, I understand if he wants to he could go to a file or get somebody else to check and try to find out whether this is a claw hammer or an airplane. [Laughter.]

Since you're getting the information on there, the number and what he's supposed to buy; I can't understand with computer technology why it wouldn't be well for him to have some idea of what it is that he's buying.

General SKEEN. I didn't make myself clear, sir. The information that he needs is available to him and can be called up on the screen or is available as a printout. The description is there.

Mr. Bedell. He's supposed to order 300 of item 74396 and he punches that on the screen, we have been told that all that comes up is 74396, $200 a piece, and order from such-and-such a supplier.

General Skeen. In addition to what comes up, sir, is not only that information but information on the previous buys; who it was purchased from, and how much was paid on the previous buys. That also comes up. That is also available to the buyer.

Mr. Bedell. When it comes up on the screen, does it also state: "This is a clawhammer"?

General Skeen. It gives you the nomenclature of the item; yes, sir.

Mr. Bedell. So it would say this is a clawhammer?

General Skeen. Yes, sir.

Mr. Bedell. Oh, we were told otherwise.

General Skeen. Yes, sir, you've been told many things. [Laughter.]

Mr. Addabbo. What would they call the washer on this sort of thing; do they call that a spacer?

General Skeen. No, sir, we call it a washer.

Mr. Bedell. Mr. Bilirakis, I'm sorry.

Mr. Bilirakis. No, sir. I guess my head is spinning even more. The step by step process, gentlemen, is played at a particular department, of a particular department of the military, the Air Force, whatever the case may be; is it need or figures on such and such a date, there will be a need of certain parts; and then plugs that into the system. This system is General Connolly's department?

General Connolly. For consumables that have been assigned to us, yes. But the services retaining the retained items for their own management, and they also have some consumables. We do not have them all, but we have the major share.

Mr. Bilirakis. Well, first let me ask the question, would the taxpayer and the various military departments, the needs if you will, be better served if everything went to the DLA and the various services did not retain their own inventories?

General Connolly. No, that would just be shifting the problems around. It would give DLA the problems of reparables and things like that. I think we at DLA can manage consumables. We're set up for them, we're geared for them.

Mr. Bilirakis. Is there a possibility that the Navy could have available certain items and the Air Force not know that those items were interchangeable items, let's say, can be used by the Air Force; so the Air Force does not know that those items are available, and, then, of course, going through their own particular department put in an order and here you have duplications, and that sort of thing happens; does it?

General Connolly. Well, I'm not sure that it happens, because of the way we manage. Our philosophy is, one item, one manager, and it's usually——

Mr. Bilirakis. Yes, one Air Force item, one manager?

General Connolly. No, if they have the item and other services use it, normally one service will be given the responsibility to manage it for everyone. For example, when DLA has the consumable items, we manage them for all the services and in some instances, the Federal Government.

Mr. **Bilirakis**. So that's the proper reconciliation and accountability, so that one service knows that particular item is available to the supply system?

General **Connolly**. That's correct.

Mr. **Bilirakis**. Well, I can't really improve on the way Mr. Addabbo put it, but I will say that those of us who believe very strongly and strong national defense and to have this continuing battle for additional dollars, our interests are greatly hurt, greatly damaged by a thing such as that.

The argument, of course, and it has to be carried, if enough dollars are there, it's just a matter of using them in a much more efficient management. We're blowing a lot of taxpayers' dollars here. We're hurting, I think, the overall national defense by not solving this problem.

I have a lot of confidence in you gentlemen here, and the gentlemen who came up before before us, and I think we're all agreed; is there anyone who's appeared before us in these last 2 days who does not agree that there's a tremendous problem here, there's something wrong.

I just can't believe, we can put people on the Moon and we can't solve this problem. Solve it the way it should be solved. Unless there's something behind the scenes that is just preventing it from being worked on in an honest manner, I don't know what that would be.

Mr. **Bedell**. Thank you, Mr. Bilirakis.

Mr. Britt?

Mr. **Britt**. Thank you, Mr. Chairman. As I understand it, in the area of consumables encountered with the fungible type approach, that there's pretty heavy competition; and the DLA gets a good percentage of the competition.

I heard good things about General Skeen, but my concern is with this hearing, and what we've been concerned about is the competitiveness of this portion in particular and the leaving out, the falling out of the small business from that competition. That is statistically shown to be happening, particularly in the spare parts area.

The transfer of those 200,000 CSE items—if I am a small businessman and I had previously provided to Tinker Air Force Base and General Skeen, maybe you can help on this—an item, what do I have to do under the products offer clause to supply that item to DISC?

I previously manufactured the items. I got the data in my file I've gotten your bid offer, and, I don't see data from you, but I've got that in my file. What do I have to do to sell it to the DISC on the CIT.

General **Connolly**. Before General Skeen answers some specifics, I would just like to comment on the agency's policy. It is to buy the consumables, the consumable item transfer, like a service bought them.

Mr. **Britt**. I am sorry?

General **Connolly**. We buy them like the services purchased them. If they purchased them competitively from a given source list; we also use that same source list.

General Skeen. Let me go ahead just a moment regarding that. The question that you posed, sir, the products offered clause does not come into play. If you have no quality problems with your items, we will accept you as an approved source.

If you are on our bidders' list, and if you have provided an item to the services before, you are on our files. We would simply solicit you.

Now it depends on what the value of the contract is that we're talking about as to which method of procurement that we use.

If, for example, it comes in our automated system which is 40 percent of our business and that is for items—that is for procurements of less than $10,000—if, depending upon how many bidders we have, we will select the last successful bidder and the next five in rotation and we will send out invitations for bid to those six people.

Now, if you are not 1 of those 6, and you may be a supplier—we may have 25 sources—if you are not one of those 6, then there are bidder services in the Philadelphia area that will sell you the service that tell you what I am procuring. Then, if you want to submit a quote, we will accept it and we will work it.

Mr. Britt. OK, same set of files; but the difference this time is I have not previously manufactured the item; I have billed the item. How do I get into the process, under the products offered?

General Skeen. All right, then you are doing one of two things, sir, when you make the bid. Assuming you get the invitation for bid, or you have access to one and that's a different question, then I can answer that if you like.

Assuming you have not got the invitation for bid and you want to bid, you are either going to bid one of two ways:

Either you're going to bid on and provide the exact item that I am soliciting, that is, a GE part number or you are going to bid an alternate item.

If you are going to bid that specific part number, what I want from you is evidence that you have either provided that item to the original equipment manufacturer before, or you are getting it from him or from one of his vendors that has been approved by him. I need some sort of proof that you're giving me that manufacturer's part-numbered item.

Mr. Britt. Let us assume that when you have given your bid, you have given that a numbered item?

General Skeen. A part-numbered item.

Mr. Britt. Go ahead.

General Skeen. Now, if you were going to give me something that you think will work, it is not GE part number.

Mr. Britt. I have the data in my files——

General Skeen. You've got the data——

Mr. Britt. I have got the data, I have bid on it before, and I have just never gotten that contract before. I know exactly what you want.

General Skeen. OK. What I need from you is the documentation that will show me what you plan to provide.

Mr. Britt. So, you need the data bank?

General Skeen. I need the documentation that shows me what you are planning to give me if I accept your offer.

Mr. **Britt**. So, specs and drawings?

General **Skeen**. Sir?

Mr. **Britt**. Effectively specs and drawings?

General **Skeen**. Yes.

Mr. **Britt**. Then, what happens to those specs and drawings?

General **Skeen**. Now, if you are the low bidder——

Mr. **Britt**. Well, I am talking about qualifying the bid first.

General **Skeen**. I am going to get to that, sir, because what your bid is depends on what I do with it.

If you are within a reasonable range of the low bidder, I will take and process that data through my technical operations office, and I have the authority to look at that data and say, no, it will not work, I come back to you, and I tell you no, it is not acceptable, and tell you why.

Mr. **Britt**. What if you do not have the specs and drawings at DISC, because they were sitting in your——

General **Skeen**. If I cannot make that determination, sir, then I will send it on to the engineering support activity, which is located within the military service and in the case you recite, it will probably be Tinker Air Force Base.

Mr. **Britt**. So, it is going back to Tinker with my decision as to whether I can bid.

General **Skeen**. It goes back to Tinker, and it says here is all the documentation; here is an alternate offer.

Tell me whether or not you will accept this as an acceptable item. If so, they come back and they tell me, yes, and I go back to you and say, yes.

Mr. **Britt**. Well, they go back to you and then, all right, in the meantime, what has happened to that bid?

How long does this process take?

General **Skeen**. On the average the ESA will respond to this in 60 days.

What happened to that bid depends on the urgency of the requirements.

Mr. **Britt**. Exactly, so, if that product is urgently needed I am not going to be considered?

General **Skeen**. Not on that bid; but I am going to go ahead and process it on through, and if it is acceptable, I am now going to enter you into my file as an acceptable source and the next time I buy that item, I am going to solicit you.

Mr. **Britt**. All right.

Same circumstances. It comes back the same item, but is now a dash 2, and I am an alternate bidder.

What is the process?

General **Skeen**. It depends a good bit on why it is a dash 2; generally it goes through the same kind of process.

Mr. **Britt**. It goes through the same process, does it not?

General **Skeen**. It depends upon why it is a dash 2. It depends on what changed about that item to make it a dash 2. It could be a very significant change; it could be an insignificant change.

Example: We bought some bearings not too long ago that go on the refueling boom for the Air Force refueling aircraft. Those bearings are now causing a problem.

So now that bearing is going to be modified to correct this problem. Now, if that is the dash w, then I am going to send your alternate offer onto the engineering support activity and ask them what they think.

Mr. BRITT. Back to the same plot: Even though I am already qualified, standing in line for that item, the dash 2 comes up, you are going to go through the same thing, and I am going to get carved out, because of the urgency.

General Skeen, if you were a small businessman, would you subject yourself to that process and try to get a bid on a Government contract?

General SKEEN. If I were a small businessman, that is the decision I would have to make. But let me answer the question another way, sir: If you were flying the aircraft that was going to be refueled, what would you want me to do with that dash 2?

Mr. BRITT. In items that are of a critical nature, I could not agree with you more. But when we bid to the other kinds of items which are consumable, which is what your definition is, generally, I do not think that we are in the same situation.

Let me ask you another question.

General SKEEN. Wait a minute, sir. I need to respond to that.

Mr. BRITT. Yes, sir. Go ahead.

General SKEEN. Within DISC, in those consumable items, we manage over 200,000 items that are weapon systems coded. So we are not just a hardware store. Some of these are not just simple items that you walk down to the hardware store and buy. These are aircraft repair parts, and we manage other parts for weapons systems, coded items alone, over 200,000 items.

Mr. BRITT. I agree with you, and those are the parameters of the problem I think we are dealing with in these hearings. The parameters of the problem are, on the one hand, making sure that we have the best force, particularly in parts equipment, that we don't sacrifice quality to competition, and the pendulum frankly could swing that way. We have got to avoid that. The other side of it is we have got to do something to make sure that we do so without the frustration to the small businessman. If you were a supplier that supplied Tinker Air Force Base, and saw this process go through, and you have already been on the product before, and you have got to go through that process, you are going to be entirely frustrated.

Let me move to another question, quickly if we may.

We talked about all the engineers at DLA. Can you change the PMC on that?

General SKEEN. No, we cannot.

Mr. BRITT. You have to go back to Tinker Air Force Base and change the PMC. How can you conduct breakout if you cannot address one of the simplest problems of competition?

General SKEEN. Well, sir, the procurement method code is a code that has to do with technical competition and whether or not data is available. It has nothing to do with who can bid on the item. It has nothing to do with price competition.

The procurement method code is the code that describes the condition of the data that you have. If it is a PMC code 1, or 2-G, I have all of the data that I need that I can make available to anyone that wants it.

If he follows the information that I give him, he can manufacture the item. So, it has to do with the technical data and whether or not that is publicly available. Now, in terms of competition, but I think you gentlemen are concerned with how many bidders do I have?

How many small businesses are competing for these items?

Mr. BRITT. Well, I am concerned about the code that is restrictive that need not be restrictive. I am concerned about the divisioning process, where you have got the OEM sitting there designating things proprietary when they are not really proprietary; when you have got engineering restrictions that should not be on there; when you have got the kinds of things that keep it from being a 1-G or a 2-G. You cannot change that at DLA?

General SKEEN. That is right.

Mr. BRITT. And that has to go back to Tinker Air Force Base again. Again, if you are going to do breakout, you have got to do it at a place where you can do breakout. I agree that in the consumable area, DLA apparently is doing a good job, but when you get to the CIT items in the transfer, and the reason that I have spent this much time on this is that I understand that more items were designed or designated to be transferred to DLA.

I think in the spare parts area, that such a move would be absolutely detrimental to the small businessman.

General SKEEN. It is nonprofessional.

Mr. BRITT. Tell me how you are going to improve competitiveness and give more contracts to small businessmen?

General SKEEN. By searching for data that is available within the military and within other data sources to make the item more competitive and we do this everyday. We do it in the sense that we find that one part.

We had a case just the other day where we started with one part. We did the market research. We looked at that item, we found another item that would fit the bill. It was the same item.

Now, as we went into the process to look at it, we found that this one item was one of a series. There were 20 items in the series. As a result of breaking out that one item, and finding that one piece of data, those 20 items are now competitive. But then we looked at it again and that series is one of a class. As a result of that breakout, there are now 400 items that are no longer noncompetitive; they are competitive. You do not need to be an ESA to find those kind of things. We do this all the time.

Mr. BRITT. Well, those are to be commended.

My point is that it just seems to me that there were a lot of things that were broken out and the codes reverted back and went sole source, and that sort of thing.

General SKEEN. That's not so. As a result of the previous allegations in this area—and I have provided the backup information to the investigative subcommittee of the House Armed Services Committee when we went back and looked in response to that question as to how many codes we had changed. Remember, we received 68,000 of the 200,000 lines, we changed 486, and we have now changed most of those back. We changed them because we did not have the data. The data did not all come at the same time.

As the data came in, we went back in and we changed them. We did not purchase any of those except for an urgency of need. We have got a code in the file now that where any of those CIT items come up for procurement, it kicks out for management review to make certain that we have got all the data that we need to procure it properly.

Mr. **Britt**. As I said, I heard good things about your management of that and your effort to plug it.

What kind of back orders you have got in the CIT, General Skeen?

General **Skeen**. That figure was mentioned this morning, sir, and it was called backlog and the term is wrong.

It used to be about 95,000 procurement lines in process.

In process means we are working them from the time the supply operation people determine we have a requirement until the time we have them on purchase order or contract.

As of September 30, that was down to 73,530. The more important figure, sir, is not the number of lines; it is the procurement administrative leadtime. How much time does it take you to process it through that?

The large purchases are now running about 120 days; small purchases about 60 days within DISC.

That, I think, is acceptable. If that is not right, it is acceptable. It is going down now.

Our goal for the next year will probably be somewhere in the 70,000 to 80,000 range, and that is where we are right now.

So, I have no backlog. I simply have a number of buyers who are working the problem to get a contract on the street.

Now, you heard this morning, also, that it is more work if you buy competitive.

I submit to you it is more work if you buy it sole source.

If I have all the data I need, all I have got to do is to have the machine put together a package to distribute it, put a bid opening date on it, have it come back into my bid box, and on the bid opening date, I open up the package and I see who is the low bidder, and I send him a contract.

I do not have to do any negotiations; I do not have to argue with anybody. I don't do any of those things. It is a lot simpler for the buyer to buy it competitive than it is to buy it sole source.

Mr. **Britt**. Are there plans to transfer additional items in large quantities to DISC?

General **Skeen**. I am not aware of any at this time.

Mr. **Britt**. Thank you, Mr. Chairman.

Mr. **Bedell**. Thank you, Mr. Britt.

I want to be sure I understand things. It was my understanding that in order to change something from sole source to competitive purchasing, the code has to be changed. Apparently, I am wrong about that; is that correct?

General **Skeen**. Sir, we are getting terms mixed up.

Procurement method code is the code that tells us how we will procure it from a technical data point of view, whereas sole source is a term that we normally use to say that there is only one manufacturer that provides this.

Now, if that is true, you can have a sole source item where only one manufacturer will make it, but that data may be in the public domain and anybody can make it that wants to. But when you go looking for a source, you cannot find out; and if you have only one source, and that is the only source you can find, that is sole source; but, if another manufacturer wants to make it, I have got the data to give him, and he can manufacture it.

Mr. **Bedell**. Well, I don't think you answered my question.

My question is: I have a washer that is a part of an airplane engine; I can buy it at the hardware store, and in your computer it is marked "sole source: McDonnell Aircraft." You buy it from them.

Because of your breakout, your people decide that you want to bid that competitively.

My question is, "Does that code have to be changed? In order to get it changed, do you have to send it back to the Air Force base in order to get it changed?"

General **Skeen**. To change the code, the military service must do that, yes, sir.

Mr. **Bedell**. Oh, I think some of us think that is a pretty crazy way to operate, frankly. Some of us would think that that is a terrible argument as to why it doesn't make sense not to let them do the breakout, if when you do the breakout, you cannot make the change until you send it back to the original program people and get their approval to make the change.

General **Connolly**. Well, we could do the breakout if we had more engineering responsibility.

Mr. **Bedell**. Well, I am not arguing about how your rules are or anything, but some of us would have concerns about that. Also prior to calling Major Pierson, I think we should point out again that the competitive, formally advertised competitive bids have shown a constant decline in percentages ever since 1979: In 1979, 7.9; 1980, 7.6; 1981, 7.3; 1982, 6.7.

That is from a report out of the Department of Defense, so it is, I presume, accurate since it is from you folks.

Mr. Ray?

Mr. **Ray**. No questions.

Mr. **Bedell**. I have got several.

First of all, General Stallings, we need to understand the bill, I think, quite clearly, in regard to what it proposes. Anyway, you brought this up. The bill says that you will not have to be on a qualified bidders' list in order to bid.

It does not say that they have to award that to somebody without them being certified as acceptable. The only purpose is that, as we understand it now, that it is difficult. In fact, we had the Small Business Administration before us, who said they would not even do it if it was less than a $10,000 sale, of which we have had testimony that indicates that is a very big part of the total sales.

The purpose of the bill is simply to say that, if I am a small business person, and I think I could furnish this bolt to the Army, and they are buying it, then I will have an opportunity to go ahead and submit a bid on that bolt; and if it is the low bid, then it will be necessary to check me out to see whether or not I am a qualified supplier.

Do you folks object if that is what it says? Do you object to that?

General STALLINGS. Sir, the part that the Army is worried about is giving to the Small Business Administration the decision of whether or not the company is technically qualified.

Mr. BEDELL. We've already done that. We've already done that legislatively.

Whether you want to do it or not, we have already done that. That is the law now.

General STALLINGS. Well——

Mr. BEDELL. Whether you like it or not, it is the law.

General STALLINGS. Our comment was from a point of view that the Small Business Administration can clearly make a determination of whether or not, from a business point of view, that he has the business ability to bid on the contract.

But, from a technical point of view, we felt that the service is the organization that ought to make the decision whether or not he can meet the qualifications to produce from a technical point of view.

Mr. BEDELL. You see, that's the problem. Because what we would normally do in a private business is to have a quality control department do a check.

General STALLINGS. That is right.

Mr. BEDELL. A business would supply part, and we would have to check it out, and reject it if it was up to our requirements and acceptability. Apparently, you do not have that in your services to that extent?

General STALLINGS. Yes. Admiral Sansone has keyed me to quality and we certainly do have a quality check. In fact, before he actually gets that award, he would be subjected to an annual clearance to make sure that he does have the capability to produce the requirements.

But I think that the words that are in the bill would take that decision away from the services and that would be wrong. I hope that you have not removed the capability to decide whether or not he is technically competent to be able to produce.

Mr. BEDELL. Well, the Small Business Administration has certified that he is a responsible concern.

General STALLINGS. Yes, sir.

Mr. BEDELL. And is concerned about getting the right part.

General STALLINGS. That he is responsible, not responsive.

Mr. BEDELL. Do you have something to add, Admiral?

Admiral SANSONE. Yes, sir. I was just going to bring up the process that is in existence today for checking the contractor's capabilities, both his financial and his capacity, for the kind of machinery he has, also his financial capabilities, all that process is in existence today, and that's the preaward survey process that the Defense Contract Administration Services run for us.

So each new contractor who has a proposal to offer us, for example, that bolt that you showed earlier, can offer that bolt and before we would award, we would perform a preaward survey.

Mr. BEDELL. Well, that's what this bill does.

Admiral SANSONE. Yes.

Mr. Bedell. So you have that review process.

Admiral Sansone. Be we have already got that system in existence.

Mr. Bedell. So, you have no objection to that then?

Admiral Sansone. Yes.

Mr. Bedell. If I understand the bill—I am not always right about reading thing, but as I read the bill, the intent of the bill is to say that anybody could bid on that bolt if they knew about it, and wanted to bid; but you would not be required to necessarily grant the contract on the bolt until the person has been checked out, and received the proper clearance.

Mr. Kemp. Sir, if that's the intent of the bill, then you know, perhaps our comments are misunderstood.

Mr. Bedell. Well——

Mr. Kemp. Well——

[Laughter.]

If the comments in the bill that anybody can bid and if he's not qualified, we have the right to say, hey, you're not technically qualified, and we don't have to consider your item.

Admiral Sansone. We'd have no objection to that, because we are already doing that, Mr. Chairman.

Mr. Bedell. But no small businessman, for sure, shall be denied the opportunity to submit and have considered its offer for any contract let by Federal agencies solely because of these different things. The qualified bidders list——

Mr. Kemp. Yeah, but it talks——

Mr. Bedell. They are not on the qualified bidders' list and never received prior approval. They can arrange to have their offer considered to bid on a contract or perform on request contracts with prior approval. Is responsibility measured and subject to subparagraph (a) where a specific contractor, under consideration, can now be referred to the Small Business Administration.

That is the whole section. As I read it, very clearly, they simply are trying to open it up so that I cannot be turned down for an opportunity to submit a bid for consideration.

I think that is the intent of the bill.

General Stallings. That is the exact intent, sir. We do not have to provide for the contract.

Mr. Bedell. So you don't have any problem with that, I take it?

General Stallings. They are more expensive.

Mr. Bedell. You don't have any problems with it?

Admiral Sansone. We have some problems.

General Stallings. Yes, sir; maybe it is a lack of money.

Mr. Bedell. I guess you have problems there.

[Laughter.]

What is your problem with this?

General Connolly. The problem with that is that on all purchases down to $1 we would have to get COC's and that would impact severely on our automated purchasing system.

Mr. Bedell. Well, of course, that's up to you. If it was a dollar, I wouldn't think you'd really worry that much about a COC, but you'd only have to get it for the low bidder, would you not?

General Skeen. Let me give you one example.

Mr. **Bedell**. You only get a certificate of competency for the person that won the bid, that's all, so anybody could bid and then if they were the low bidder, you would have to be sure that they qualified.

General **Skeen**. Let me give you one example where that would hurt us in DISC, sir.

We procure things in two kinds of automated ways. One we call SASPS-1, and one we call SASPS-2. I mentioned SASPS-2, on 40 percent of my purchases. I do not have the percentage figures for SASPS-1.

SASPS-1 is for purchases of $1,000 or less. What we do with a SASPS-1 purchase, these are very small purchases. We prequalify the bidder, and we qualify him based on his performance and his quality, that is, how often he has shipped on time, and the quality of his product? How much trouble has he had with quality?

We then qualify him as a bidder.

Now then, if he is qualified on a specific item, and we have a requirement for that item, and it falls under $1,000, meets all the criteria, it is done completely automated. It is noncompetitive in that we select that bidder and we send him a purchase order.

Now, we would not want to let just anyone get into SASPS-1 because what we do is we send the purchase order out; we assume he is going to ship, but note that he has not yet accepted the contract. We have no contract with him.

But we give him the purchase order: he accepts the contract by shipping. We would wait 30 days for him to ship and then we start following up.

Now, if we have to have everybody going to that system because they want to submit a bid, then we would have to abolish that system.

Mr. **Bedell**. So, you feel it would be much better if it denied the opportunity to submit or to have considered this offer for contract bid by bidder agency in excess of $1,000 solely because of such concern; is that what you are saying?

General **Skeen**. That would certainly be better.

Mr. **Bedell**. Well, I do not know how the subcommittee would feel about it, but that would be one idea. That is the purpose of these hearings, to try to learn any suggestions you have as to how we could make improvements on the bill.

I am a little bit surprised by your testimony with regard to how you screen and how you buy. What you are telling me is the guy that bought that hammer did not know he was buying a hammer and was paying $500-and-some-odd for it.

General **Skeen**. Sir, I did not buy the hammer. [Laughter.]

Mr. **Bedell**. Well, you are telling me that the contact was screened.

Admiral **Sansone**. I bought the hammer.

Mr. **Bedell**. So, somebody agreed to buy a hammer for 500-and-some bucks. He knew he would find a claw hammer for 500-and-some bucks; is what you are telling me, I take it?

Admiral **Sansone**. Mr. Chairman?

Mr. **Bedell**. Yes?

Admiral **Sansone**. The Navy is responsible for the hammer example.

Mr. Bedell. Oh, OK. [Laughter.]

Admiral Sansone. And I wanted to start my statement by saying that I bought it, but that is not true.

One of the situations that we found involved interim spare parts support lists, that's a specific term that we use when a contractor with a new item or equipment is providing us his initial or interim recommendations for spare parts support.

The contractor's interim support list in which this hammer occurred was submitted to the Naval Training Equipment Center.

The new item or equipment has not yet been provisioned for full spares support by our inventory control points. The ICP does not have the full range and scope of manufacturing data available at the inventory control points to provision the items or equipment for standard stock support. ICP support usually occurs from 1 to 3 years after interim support.

The Naval Training Equipment Center only looked at the quantities on the list, and its bottom line dollar value. The total list was not reviewed in detail. Within the judgment guidelines used by the reviewing people the list contained low dollar value items and therefore was not completely reviewed.

Mr. Bedell. Wait a minute——

Admiral Sansone. The list was not reviewed to show——

Mr. Bedell. Did the list include a clawhammer for $589?

Admiral Sansone. Pardon me, sir?

Mr. Bedell. Did the list include a clawhammer for $589?

Admiral Sansone. Yes, sir. However, every item on the list was not reviewed.

Mr. Bedell. Well, somebody had looked at that list and it said "clawhammer, $589," and said go ahead and buy it.

Admiral Sansone. The list was not totally reviewed because it did not meet the low dollar value threshold judgments of the activity reviewers for a total detail review of every item on the list. That was the guidance that was in existence at the time. The list then was passed through the procurement shop for buying action and the procurement shop ordered the list.

Mr. Bedell. Did he know that he was buying a clawhammer for $589?

Admiral Sansone. No, sir, he did not.

Mr. Bedell. The screen he had did not tell him that.

Admiral Sansone. He did not conduct a detailed review, sir, and that is one of the problems that we identified.

Incidentally, the Navy's procurement management review team was at that center for 4 weeks, going through each and every detail of the process, the processes and the policies used. Our report has not been submitted yet to higher authorities, but we found that one of the two main reasons why that list was not reviewed in total was a shortage of personnel in the logistics function, that is, they just did not have enough people to review each and every item on that interim support list that was submitted to them, and they are getting many, many thousands of interim support list items in support of training equipment.

Mr. Bedell. Well, somebody had——

Admiral **Sansone**. Also, sir, there was no automated system to provide any assistance, not only in the logistics shop but in the contracting shop as well.

Mr. **Bedell**. But somebody, then, prepared a list that apparently said——

Admiral **Sansone**. It was under our contract that we required the contractor to prepare his recommended interim spare parts support list which would provide interim support for that device until the supply system was able to provision it at our inventory control point.

Mr. **Bedell**. So, this contractor furnished you some piece of equipment, and he recommended that it was very good to have a clawhammer?

Admiral **Sansone**. That is right, sir.

Mr. **Bedell**. OK; did he recommend that you have a clawhammer that was going to cost $589, or did he have any idea what the clawhammer was going to cost?

Admiral **Sansone**. The clawhammer was contained among 400-and-some items on the interim support list, and we——

Mr. **Bedell**. But did he say the clawhammer would cost $589?

Admiral **Sansone**. No, sir, the clawhammer was listed and there was an estimated price for the list.

Mr. **Bedell**. For the total.

Admiral **Sansone**. For the total list.

Now, that was an estimated proposed price. The contracting shop with the guidance from the logistics shop bought the whole list.

That whole list then went to the contract administration activity serving the Navy's NTEC Center and the contractor, and the Navy asked that the Defense Contractor Administration Services negotiate the list and definitize that estimate.

The pricing action then took place at the Defense Contract Administration Services region.

Mr. **Bedell**. Did they buy the clawhammer from the guy or the firm that originally submitted a list?

Admiral **Sansone**. Yes, sir.

Mr. **Bedell**. Oh. So he bought it without having any idea of what it was going to cost?

Admiral **Sansone**. We knew what the total list was.

Mr. **Bedell**. You did buy it without knowing what the individual items were going to cost, because he would have told you.

Admiral **Sansone**. That's right, sir. We accepted the contractor's recommendation that was the problem; that was the fault.

Mr. **Addabbo**. Admiral, when you say you received this list, now you received the list from the prime, is that right?

Admiral **Sansone**. From the training equipment manufacturer, yes.

Mr. **Addabbo**. And did he tell you what equipment he needed?

Admiral **Sansone**. Pardon me?

Mr. **Addabbo**. He told you what equipment he needed?

Admiral **Sansone**. No. He told us what we needed in terms of spare parts to support the equipment that he sold us.

Mr. **Addabbo**. And, now, did the clawhammer come out of your stock fund or was it a new purchase?

Admiral SANSONE. No, the clawhammer was part of the support equipment purchase.

Mr. ADDABBO. A new first purchase?

Admiral SANSONE. The interest for this design for the purchase buys.

Mr. ADDABBO. And it was a direct first purchase?

Admiral SANSONE. Yes, sir.

Mr. ADDABBO. You went back to the contractor that gave you this? Is that what you are saying?

Admiral SANSONE. I am not following you.

Mr. ADDABBO. In other words, are you telling us that company A contractor says, "In support of this operation, I need these items?"

Admiral SANSONE. Yes, sir.

Mr. ADDABBO. All right. And he gives you that list?

Admiral SANSONE. That is right. And we went back to him and bought that list from him.

Mr. ADDABBO. He then supplied all these products?

Admiral SANSONE. Yes.

Mr. ADDABBO. You paid him for it?

Admiral Sansone. That is right.

Mr. ADDABBO. His price, and no one else's?

Admiral SANSONE. Now, that is the subject of what we have done, in terms of receiving a refund, and a refund was received for those items on that interim support list.

Mr. BEDELL. We are running late.

Admiral SANSONE. Now, if I may, Mr. Chairman, just to make sure that I am clear.

Mr. BEDELL. You are not. [Laughter.]

Admiral SANSONE. The clawhammer should not have been bought. That was against the policy, against the regulation. There has been disciplinary action taken in that regard.

Mr. ADDABBO. What I do not understand in this review process is, if I am the contractor and I say I need A, B, C, D, and E to perform this work for you, you should provide A, B, C, D, and E. You look at it and it is below the threshold of say $5,000, whatever the threshold might be, and then, all you do is you stamp it "below the threshold," and nobody has time to check it out, it looks OK. Send it back to the contractor. OK, we will go out and buy some for your use.

Admiral SANSONE. That is what essentially happened in that case.

Mr. ADDABBO. How long has this been happening.

Admiral SANSONE. It is not happening anymore. [Laughter.]

Mr. ADDABBO. I would hope not.

Admiral SANSONE. It happened in that case. Had it been happening in prior cases, I cannot verify that at this point, but is it happening anymore? The answer is no.

Because having found that problem, we did reallocate resources within that activity to provide for detailed review of each line item on each interim support list and all that it contains, what was proposed by the contractor to buy, and then the proposed price by the contractor.

Now, on the listings of items, if there are stock numbered items available in the supply system, those items would be bought from the supply system.

Mr. Addabbo. Admiral, you tell me that this item was not in the stock fund.

On his request list, was it listed as a catalog number or was it listed as a clawhammer, a washer, and all the other descriptions? Were they spelled out? Or were they listed?

Admiral Sansone. It was spelled out in accordance with the contract specification that the contractor was supposed to submit this interim support list. Yes, it was very well spelled out.

Mr. Addabbo. It said "clawhammer" on the list?

Admiral Sansone. Yes, sir, it did.

Mr. Addabbo. You would go back to him for him to buy the clawhammer?

Admiral Sansone. We did go back in that instance with that whole list, and bought the whole list from the contractor.

Those listings, as they are being submitted to us now, in response to the clause in the equipment contract, are being reviewed item-by-item, piece-by-piece, dollar-by-dollar.

Mr. Addabbo. Well, what I am just wondering, if you took that list by description of the multimillions of dollars that we are funding in ADP's, if you just ran that list through you would probably find out that 90 percent of those items were in inventory someplace. Would that be a fact?

Admiral Sansone. For the interim support list? That is a possibility.

Mr. Addabbo. Well, see, what is what bothers me also, this whole thing.

Admiral Sansone. But, now, an interim support list is a one-time buy to get initial support for that equipment when it is installed, and then the equipment will be provisioned and managed by the logistics experts in the inventory control points. The replenishment of space parts, replenishing the interim spare parts list, would be subject to all the review process, the breakout process, the competition process, and all of the initiatives that we're taking to include small business in our industrial base, to review the pricing, to gain price history, and a whole series of other events that do occur in the inventory control point decision process to buy.

Mr. Addabbo. If we had the process unchanged, which hopefully is now properly changed, then I can understand why we have seen in many instances where at one end of the stick you are surplusing items, and at the other end of the stick you are buying the same item as a new item.

Admiral Sansone. May I interrupt, Mr. Addabbo, please, sir?

There is no policy that says that the interim space parts list will be totally bought from the contractor. The review process that the logistics individuals are supposed to go through, when they are looking at an interim support list, is to identify those items that are available in the stock system and buy those from the stock system; identify those items that are part-numbered, not stock-numbered items; and look at them for breakout.

That is what is being done now.

Mr. Addabbo. Which corrects the problem?

Admiral **Sansone**. Yes, sir.

Mr. **Addabbo**. All I was doing was just reviewing some of the other ills that are contained with the previous system, but what could happen is you can put in a washer under a new catalog number, and you can have the same washer under two different catalog numbers.

Admiral **Sansone**. No, I do not believe that would happen, Mr. Addabbo, because those washers with part numbers would be checked through Defense Logistics Support Center and its files and that would show us, in running that check, whether it is a stock-numbered item.

Mr. **Addabbo**. What I am saying is that the first overrun is not giving you stock numbers.

Admiral **Sansone**. Oh, yes, it is required to.

Mr. **Addabbo**. Stock numbers?

Admiral **Sansone**. Yes. The contractor by a clause in the contract concerning which he submits this interim spares list is required to show us what stock numbers if there is a stock number for it, or if there is a part number for it. What he is not required to show us is the availability of that standard stock item in our supply system.

Mr. **Addabbo**. And at that point in time——

Admiral **Sansone**. We are supposed to do that.

Mr. **Addabbo**. At that point in time, you had no clawhammers in stock?

Admiral **Sansone**. The clawhammer was not even looked at, Mr. Addabbo, as an item of supply to check through the supply system.

We don't stock clawhammers. General Services Administration does. I am sure the GSA would have provided it if it were available and if we would have broken that list apart and looked at each individual item, as we are not doing.

Mr. **Addabbo**. It is being done now?

Admiral **Sansone**. Yes, sir.

Mr. **Bedell**. What is the total amount that you are going to look at?

Admiral **Sansone**. As we should have been doing that, Mr. Addabbo. The requirement to do it was there in our policy, in our field procedures; and it was not done, and disciplinary action was taken in those cases.

Mr. **Addabbo**. I know that because it said several years running in our report because of this.

Mr. **Bedell**. What was the total amount of this contract?

Admiral **Sansone**. Mr. Chairman, my memory does not serve me exactly because it was one of several interim support lists. We were looking at dozens of them at the same time.

Mr. **Bedell**. If the contract was below a certain amount you did not look at it, is that correct?

Admiral **Sansone**. I am talking about my procurement management review team that we did an actual in-fact audit. So, what the value was, I would have to submit that for the record.

[The information referred to above follows:]

The total value of the proposal which included the hammer, and which I previously stated was only reviewed for line item and quantity, was $1,351,136. This was subsequently negotiated at a firm fixed price of $827,000.

Mr. **Bedell**. You looked at the bottom value, and if it was below a certain amount; then you did not question it; is that not right?

Admiral **Sansone**. That is right.

Mr. **Bedell**. But you do not have a rule on that; that was up to him to decide?

Admiral **Sansone**. No, that was a matter of judgment and local policy at the station.

Mr. **Bedell**. I see, but you don't know what that was?

Admiral **Sansone**. I do not recall, sir.

Mr. **Bedell**. Can you furnish it to us?

Admiral **Sansone**. Yes, sir. I would be happy to.

Mr. **Bedell**. That would be of considerable interest.

Admiral **Sansone**. I would be happy to.

[The information referred to above follows:]

The policy at the Naval Training Equipment Center for conducting a line item review of interim support lists was not a written policy, but one of judgment based on current workload and available resources.

Mr. **Bedell**. OK. We are running late on time.

General Connolly, we had testimony yesterday, from small business people who had been severely damaged by the rule of the purchasers to your department because they had been on the bidders' list. We were told by several witnesses that when that move was made, they were simply flooded with paperwork and so on. We were also told that you put a number of things on sole source purchase that had previously been competitively bid. Is that correct, or is that incorrect?

General **Skeen**. That is not correct, sir.

Mr. **Bedell**. So, you did not change contracts to sole source?

General **Skeen**. I am sorry.

Mr. **Bedell**. Did you take items that had previously been competitively bid directly to Tinker Air Force Base, for example, and put them on sole source?

General **Skeen**. As I indicated earlier; and, if I might, sir, I provided testimony on May 25, 1983, to the investigative subcommittee of the HASC, and a lot of this is included in that testimony. We looked at it afterward and, as I indicated, there was some 400-and-some odd PMC codes that we did change because the data was not available or there was conflict in the data and so forth and so on.

The transfer took place in 9 increments; and, you know, it started, I believe, about April 1, and concluded about November 1, 1982. Each month we received another group of items, if you will; the transfer took place on a monthly basis.

There was a point in time when the Air Force provided a tape from their automated system, that had some data on it. Their system is different from our system. Our system could not read the tape.

The automated design agency that supports us then developed a utility program to read the data off the Air Force tape and read it into our data file. Now, in that period of time that it took to produce that utility program, we literally had data available on a tape that we could not use and could not pull off.

So, in that case, there could have been for a short period of time some items that had been bought from a source before, and we were not aware of that source. That was a short-lived situation.

Mr. **Bedell**. That is not the question. Let us get back down to brass tacks.

As of today, are there items that you are purchasing that previously were being competitively bid at Tinker Air Force Base that are not now being competitively bid because they are handled by your department?

General **Skeen**. No, sir.

Mr. **Addabbo**. How short was this interim period?

General **Skeen**. I am sorry, sir?

Mr. **Addabbo**. How short was this interim period?

General **Skeen**. I was not there at the time, Mr. Addabbo. I have been led to believe about 3 months.

Mr. **Bedell**. Mr. Britt?

Mr. **Britt**. I have one question following up on Congressman Addabbo's question. It seems to me like an awful lot of savings to be realized.

One of the accomplishments of our procurement system is having a standard parts list. It is a major change, and a goal in which representatives here have had a hand.

How do they make that standard parts list, the first billing?

In other words, I would like to see a lot of these spare parts, instead of being machined with manufacturers' own screws, being built, as I understand the F-16 was, by maximizing the use of standard spare parts.

How do we insure this sort of procurement throughout the whole system? What kind of incentive do you put on the OEM's and everybody designing equipment and small parts and components to make them use standard parts when ever possible, instead of inventing something new or different for a special machine?

Mr. **Kemp**. Well, as you indicated, this did take place in the F-16. It takes place in most of our systems. I cannot say all because I am not positive.

But we do that through our analysis when we evaluate for the purposes of award. This is one of the considerations that is made—how many new items is a contractor bringing into the system?

That is part of the analysis when we do our life cycle cost evaluation. Are we going to incur additional cost? We prefer that the contractor in designing the end product consider items that are already in the system so that we do not have to go out and bring in new items.

That is expensive. It costs us money. It costs us time. It costs us effort.

Mr. **Britt**. Is that anywhere spelled out as a specific consideration?

Mr. **Kemp**. It is in our life cycle cost model, sir.

Mr. **Britt**. So the OEM's, or whoever is bidding on the part of the solicitation.

Mr. **Kemp**. That is part of the solicitation, yes, sir.

Mr. **Brittt**. They know the more standard parts they use, the more likely they get the contract?

Mr. **Kemp**. The lower their life cycle cost evaluation will be, that is correct.

Mr. **Britt**. Is there anything else that we can do to try to encourage the usage of the standard parts throughout the system?

Mr. **Kemp**. Throughout my whole career, I think we always try to encourage this. We are just not always successful and sometimes we can be made to look very foolish.

Mr. **Britt**. Why was the F-16 so successful?

Mr. **Kemp**. I think that was perhaps a better tracked, more controlled program, and there was a great deal more emphasis placed on the F-16, and we have the facts and figures and the publicity to go along with it, so there is knowledge. I sit in on many source selections. We do it in all our systems. When we bring it in, we want commonality. We encourage them to use existing items.

General **Connolly**. I would like to add a point here.

Mr. **Britt**. I am sorry. Go ahead.

General **Connolly**. May I add a followup point?

We are working in response to the Secretary of Defense's direction to see what we can do to accelerate plans for an automated system where OEM's can come to the DLA activities inventory control points and get information on the standard parts that are available, we are working to try to accelerate parts control data systems.

Mr. **Britt**. Well, they may not know all; they may not have access to all the standard parts to an airplane. If they have them on computer or something, will they get——

General **Connolly**. They will be able to, you know, sort of dial up electronically and find out whether parts they are proposing, are a standard part, or whether they are in a part family where they could develop, you know, could code it as a standard part.

Mr. **Bilirakis**. Could you tell the subcommittee in what way, because the Army may possibly apply a particular name to an item, and the Air Force by a different name doing a different code, so how is it you actually plug that in, or determine whether that part already exists in the system somewhere?

General **Skeen**. I am not an expert in parts control, but I can get that for the record for you.

[The information referred to above follows:]

We currently provide the OEM with a list of preferred standard parts, tailored to the type of system he is designing. He may use any of those parts without seeking further approval or submitting any paperwork. Then he sends us a list of non-standard parts he would like to use, with their drawings. We review those parts and try to identify standard parts that can replace them. The weapon system program manager is the final authority if the OEM does not agree with our recommendations. Currently, we find replacements for about 17 percent of the nonstandard parts submitted to us for review, and the program managers almost always agree with our recommendations.

When an automated system is developed, our capability to provide Automated Parts Control Referrals will be mentioned in the Military Standard on Parts Control, MIL-Standard-965, which is invoked in the OEM's contract. Our computers will indicate when a matching standard part number has been established by a previous parts control evaluation. If the computer does not show a match, parts control evaluators will have to review the drawings for non-standard parts and for similar types of standard parts in order to establish new matching part numbers. In other words, the Automated Parts Control System will function as high-speed corporate memory, but human judgment will still be required.

Mr. **Britt**. We heard testimony about some with more than one part number to the same part. Is that a widespread problem or does that just happen occasionally?

Admiral **Sansone**. I think there is a misconception, if I may.

Once a part enters into the system for standard stock management, that stock, that note, or that item is provided a stock number, a 13-digit stock number; and that is the same for all services and the part maintains that stock number throughout its life, unless an action is taken to change it.

Mr. **Britt**. What about interchangeability, too? That is another isssue that we can see.

General **Skeen**. In response to your question, there is an aircraft manufacturer who has within his system, when he is developing, building, and designing, and so forth, he goes out perhaps to two or three or four manufacturers of parts, and he gives them a specification and lets them design the part to his specification.

So, you, in effect, wind up with three or four or five different things that do exactly the same thing. Now, they will fit; but they may be made of different metal. There are some differences, and in that case you have maybe five part numbers that do the same thing; they have five different NSN's.

We are aware of this and we are now grouping those five part numbers. We are working with them to group those five part numbers under one NSN, but I know of that example.

Mr. **Britt**. Thank you, sir.

Mr. **Bedell**. Are there any further questions?

If not, we thank you very much for your time, and we apologize for the fact that it has been an all-day experience for you here.

We are anxious to learn everything that we possibly can in this area.

We have one final witness, Mr. Donald Sowle, the Director from the Office of Federal Procurement Policy.

Mr. **Haugh**. Mr. Chairman, Mr. Sowle had expected to testify earlier, and he had to leave to catch an airplane, so he asked me to summarize his statement, if you wish, and to answer any questions, or supply any information for the record.

Mr. **Bedell**. Very well.

[The witness is sworn.]

TESTIMONY OF LEROY J. HAUGH, ASSOCIATE ADMINISTRATOR FOR POLICY DEVELOPMENT, OFFICE OF FEDERAL PROCUREMENT POLICY, EXECUTIVE OFFICE OF THE PRESIDENT, ACCOMPANIED BY OWEN BIRNBAUM, DEPUTY ASSOCIATE ADMINISTRATOR

Mr. **Haugh**. Mr. Chairman, my name is Leroy Haugh. I am the Associate Administrator for Policy Development in the Office of Federal Procurement Policy. I have with me, on my left, Owen Birnbaum, who is the Deputy Associate Administrator.

Mr. **Bedell**. Good afternoon.

Mr. **Haugh**. With your permission, I would like to just summarize Mr. Sowle's statement and have his complete statement introduced into the record.

Mr. **Bedell**. Without objection.

Mr. **Haugh**. We appreciate the opportunity to testify today on H.R. 2133. We have studied this bill at some length in the Office of Federal Procurement Policy, and while we are certainly sympathetic to the interests of small business, we believe that the amendments proposed in H.R. 2133 would add unnecessary burdens to an already overburdened procurement system, out of proportion to any benefits they would achieve for small business.

I would like to briefly summarize our views on a few of the more significant sections of the bill and make a few comments on our effort to help improve the atmosphere for small business participation in Federal procurement and then attempt to respond to any questions you have.

Section 4 of the bill would amend the Small Business Act to require the contracting officer to make a set-aside when he has a reasonable expectation that offers will be obtained from at least two responsible small business concerns and that awards will be made at reasonable prices.

We agree in principle with guidance of this sort, but it should be set forth in procurement regulations and not by statute.

We feel that such a requirement would unreasonably limit the contracting officer's discretion in situations where two small business offers might not be competitive or where wider competition was clearly in the best interests of the Government.

Section 4 of the bill would also expand the current mechanism for resolving disagreements as to set-asides to include disagreements over the number of anticipated requirements in a solicitation, over certifications for sole source procurement of spare parts, over agency decisions to convert commercial activities to contract, decisions to award contracts to small business firms performing in labor surplus areas, and finally to set-asides of procurement between $25,000 and $2 million.

This would, we feel, interject the Small Business Administration in the decisionmaking process in a wide variety of procurement actions and place an excessive administrative burden on the procurement process.

The amended section 15(b)(1) of the Small Business Act would require that Federal agencies, "When feasible, reduce the number of anticipated requirements to be contained in each solicitation to promote the maximum practicable opportunity for small business concerns" to submit offers.

We would not object to such a mandate as an independent provision. However, this requirement is made subject to the appeal procedure we referred to earlier, and for that reason we would oppose the section as written.

Section 15(b)(3) would require the head of each procurement activity to justify each sole source purchase of spare parts in terms of one of five stated statutory exceptions.

Now, if a special problem exists with respect to sole source procurement of parts, and indeed there is one, it would not be unique to small businesses.

Standards for procuring such parts should be made applicable to Federal procurement, generally, rather than in amendments to the Small Business Act.

As you are probably aware, there is a bill in both the House and the Senate which we support and which would establish restrictions on all noncompetitive procurement.

Section 4(e) of the bill would require that every contract of $25,000 or less be set aside for small business unless no small business competition exists.

The act currently requires that all contracts less than $10,000 which are subject to small purchase procedures be reserved for small business.

We cannot support section 4(e) because it would require the contracting officer on each procurement of $25,000 or less, without regard to whether small purchase procedures were used, to solicit offers and compare prices received before he could make a determination not to set the procurement aside.

While we cannot fully support H.R. 2133, as written, we do believe that the President's efforts to increase competition in Federal procurement will be of assistance to small business. As a general rule, the more competition we can achieve in Federal procurement, the better off small business will be.

Executive Order 12352 of March 17, 1982, calls on the agencies to establish criteria for enhancing effective competition and limiting noncompetitive actions. Such criteria include eliminating and simplifying Government specifications, expanding the purchase of available commercial products, using functionally oriented specifications, and identifying and eliminating unnecessary burdens on private industry. We feel that small business will significantly benefit from these improvements in the procurement process.

On August 11 of this year, the President again stressed in a memorandum to the departments and agencies the overriding importance of competition and he directed the Administrator of the Office of Federal Procurement Policy to issue a policy directive establishing restrictions on noncompetitive procurement.

Significantly, the President's memo also recognized and endorsed programs of contracting with minority firms. On August 12, OFPP did issue for public comment a draft policy letter stressing competition in Federal procurement and restricting noncompetitive procurement.

The policy letter explicitly provides that the noncompetitive restrictions are not intended to adversely affect such congressionally mandated programs as those dealing with small, minority, and disadvantaged businesses or such Presidential initiatives as those dealing with the establishment of minority business goals.

With respect to minority business goals, there have been several recent Presidential initiatives that I would like to mention as well.

First, on December 17, 1982, the President issued his statement on minority business which advised that the Federal Government will procure an estimated $15 billion in goods and services from minority firms during the 3-year period from fiscal years 1983, 1984, and 1985, exclusive of an estimated $6 to $7 billion to be procured over those 3 years from minority businesses by recipients of Federal grants.

Second, on July 14, 1983, the President issued Executive Order 12432. This order involves the Cabinet Council on Commerce and Trade in the Federal minority business program. It requires development of annual minority business development plans and provides for the Cabinet Council to review the implementation of such plans.

Finally, the President's memorandum of August 5, 1983, urges active and positive consideration by the Federal agencies of minority firms leaving the 8(a) program.

Minority firms are almost entirely small firms, and these Presidential initiatives should, when added to our efforts under Public Law 95-507, assist these small and disadvantaged business enterprises.

Mr. Chairman, I will be pleased to try to respond to any questions you have.

[Mr. Sowle's prepared statement follows:]

PREPARED STATEMENT OF DONALD E. SOWLE, ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, EXECUTIVE OFFICE OF THE PRESIDENT

THANK YOU FOR YOUR INVITATION TO TESTIFY ON H.R. 2133, A BILL TO AMEND THE SMALL BUSINESS ACT.

I INDICATED IN MY LETTER TO CHAIRMAN MITCHELL OF OCTOBER 5, 1983, THAT, IN GENERAL, OFPP AGREED WITH THE COMMENTS ON H.R. 2133 GIVEN BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION IN ITS OCTOBER 3, 1983 LETTER TO THE COMMITTEE.

RATHER THAN REPEAT, HERE, THE DETAILED COMMENTS IN THE NASA LETTER, I WILL BRIEFLY SUMMARIZE OUR VIEWS AND THEN ATTEMPT TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

MY COMMENTS TODAY WILL BE ON CERTAIN SECTIONS IN THE ORDER THAT THEY APPEAR IN THE LEGISLATION.

SECTION 1

NEW SUBSECTION 8(b)(7)(E) OF THE SMALL BUSINESS ACT WOULD PROVIDE THAT NO SMALL BUSINESS SHALL BE DENIED THE OPPORTUNITY TO HAVE ITS OFFER CONSIDERED BY A FEDERAL AGENCY SOLELY BECAUSE SUCH CONCERN IS --

> "(1) NOT ON A 'QUALIFIED BIDDERS LIST'; (2) DOES NOT HAVE ITS PRODUCT OR PRODUCTS ON A 'QUALIFIED PRODUCTS LIST'; OR (3) HAS NOT RECEIVED PRIOR APPROVAL FROM A FEDERAL AGENCY TO SUBMIT AND HAVE CONSIDERED ITS OFFERS RELATING TO A CERTAIN NATURE OF WORK OR CLASS OF CONTRACTS IF SUCH PRIOR APPROVAL IS BASED UPON A RESPONSIBILITY DETERMINATION "WHICH WOULD HAVE BEEN SUBJECT TO NORMAL CERTIFICATION PROCEDURES WERE A SPECIFIC CONTRACT UNDER CONSIDERATION AND THE MATTER REFERRED TO SBA."

IN OUR OPINION, EFFICIENT AND ECONOMICAL PROCUREMENT REQUIRES THAT CONTRACTING OFFICERS HAVE AVAILABLE TO THEM ACCEPTED TECHNIQUES SUCH AS PRE-QUALIFICATION. SMALL FIRMS, AS WELL AS LARGE, MAY BE PLACED ON QUALIFIED BIDDERS LISTS AND HAVE THEIR PRODUCTS PLACED ON QUALIFIED PRODUCTS LISTS. THE QUALIFICATION PROCESS IS NOT INTENDED TO, NOR DOES IT, HURT SMALL BUSINESSES. IT IS USED IN AREAS REQUIRING SPECIAL TECHNICAL SKILLS, SUCH AS CRITICAL SPACE AND DEFENSE WORK, WHERE DELAYS OR DEFECTIVE PRODUCTS CAN BE ESPECIALLY DAMAGING. FOR THESE REASONS, WE CANNOT SUPPORT THE RESTRICTIONS CONTAINED IN THE NEW PROPOSED SECTION 8(b)(7)(e).

SECTION 3

SECTION 3 WOULD AMEND SECTION 8(d)(11) OF THE SMALL BUSINESS ACT WHICH REQUIRES SBA TO REPORT TO CONGRESS "SUBCONTRACTING PLANS FOUND ACCEPTABLE BY ANY FEDERAL AGENCY" WHICH THE SMALL BUSINESS ADMINISTRATION DETERMINES TO BE DEFICIENT. SECTION 3 WOULD REQUIRE THAT THE REPORT INCLUDE "THE RELEVANT CONTRACT NUMBER, THE NAME OF THE FEDERAL BUYING ACTIVITY, THE NAME OF THE CONTRACTOR, AND THE NAME OF THE FEDERAL PROCUREMENT CONTRACTING OFFICER WHO ACCEPTED THE PLAN." WE SEE NO USEFUL PURPOSE IN A REQUIREMENT TO REPORT TO CONGRESS THE "NAME OF THE FEDERAL PROCUREMENT CONTRACTING OFFICER" ACCEPTING A PLAN LATER FOUND, IN THE OPINION OF THE SMALL BUSINESS ADMINISTRATION, TO BE LESS THAN SATISFACTORY. THIS REQUIREMENT COULD WELL LEAD TO CONTRACTING OFFICERS REJECTING PLANS OUT OF FEAR THAT THE SBA WOULD SUBSEQUENTLY FIND THEM UNACCEPTABLE AND REPORT THE CONTRACTING OFFICERS TO CONGRESS. WE ALSO FAIL TO SEE WHAT NEED THE CONGRESSIONAL COMMITTEES WOULD HAVE OF SUCH INFORMATION.

SECTION 4

SECTION 4 OF THE BILL WOULD MAKE SEVERAL CHANGES TO THE SMALL BUSINESS SET-ASIDE PROGRAM UNDER SECTION 15 OF THE SMALL BUSINESS ACT. SECTION 4(a) WOULD FIRST AMEND SECTION 15(a) TO REQUIRE THE CONTRACTING OFFICER TO MAKE A SET-ASIDE WHEN HE "HAS A REASONABLE EXPECTATION THAT (A) OFFERS WILL BE OBTAINED FROM AT LEAST TWO RESPONSIBLE SMALL BUSINESS CONCERNS AND (B) AWARDS

WILL BE MADE AT REASONABLE PRICES." (EMPHASIS ADDED.) IN OUR OPINION, GUIDANCE OF THIS SORT, WITH WHICH WE AGREE IN PRINCIPLE SHOULD BE SET FORTH IN PROCUREMENT REGULATIONS AND NOT BE IMPOSED INFLEXIBLY BY STATUTE. SUCH A REQUIREMENT WOULD NOT LEAVE ANY ROOM FOR CONTRACTING OFFICER DISCRETION IN SITUATIONS WHERE TWO SMALL BUSINESS OFFERS MIGHT NOT BE COMPETITIVE, OR WHERE WIDER COMPETITION WAS CLEARLY IN THE BEST INTERESTS OF THE GOVERNMENT.

SECTION 4(a) OF THE BILL WOULD ALSO AMEND THE LANGUAGE IN SECTION 15(a) OF THE ACT PROVIDING FOR A DECISION BY THE HEAD OF THE PROCURING AGENCY IN THE EVENT THE SBA AND THE PROCURING AGENCY DISAGREE ON A SMALL BUSINESS SET-ASIDE DETERMINATION. THE AMENDMENT PROVIDES THAT SUCH DECISIONS WILL BE MADE SUBSEQUENT TO DISAGREEMENTS BETWEEN THE SBA AND THE "GOVERNMENT PROCUREMENT OFFICER," RATHER THAN SBA AND THE "CONTRACTING PROCUREMENT AGENCY," AS SPECIFIED IN THE CURRENT LAW. IT IS NOT CLEAR WHY THIS CHANGE IS BEING MADE. IT DOES APPEAR, HOWEVER, THAT THE CHANGE WOULD DEPRIVE PROCUREMENT AGENCY OFFICIALS ABOVE THE LEVEL OF THE CONTRACTING OFFICER OF THE OPPORTUNITY TO REVERSE THE ACTION OF THE CONTRACTING OFFICER SHOULD SUCH ACTION BE DEEMED APPROPRIATE, AND WOULD IMMEDIATELY ELEVATE ANY DISAGREEMENT TO SBA. MORE IMPORTANTLY, SECTION 4(a) OF THE BILL WOULD EXTEND THE CURRENT MECHANISM FOR RESOLVING DISAGREEMENTS AS TO MAKING SET-ASIDES TO INCLUDE DISAGREEMENTS

OVER: (1) THE NUMBER OF ANTICIPATED REQUIREMENTS IN EACH SOLICITATION; (2) CERTIFICATIONS FOR SOLE SOURCE PROCUREMENT OF SPARE OR REPLACEMENT PARTS; (3) AGENCY DECISIONS TO CONVERT COMMERCIAL ACTIVITIES TO CONTRACT; (4) DECISIONS TO AWARD CONTRACTS TO SMALL BUSINESS FIRMS PERFORMING IN LABOR SURPLUS AREAS: AND (5) SET-ASIDES OF PROCUREMENTS OF $2,000,000 AND LESS BASED UPON A REBUTTABLE PRESUMPTION OF THE EXISTENCE OF SMALL BUSINESS COMPETITION. THE LEGISLATION WOULD, IN EFFECT, INTERJECT THE SBA IN THE DECISION-MAKING PROCESS IN A WIDE VARIETY OF PROCUREMENT AREAS AND PLACE WHAT WE BELIEVE WOULD BE AN INTOLERABLE ADMINISTRATIVE BURDEN ON THE PROCUREMENT PROCESS. AMENDED SECTION 15(b)(1) WOULD REQUIRE THAT FEDERAL AGENCIES "WHEN FEASIBLE REDUCE THE NUMBER OF ANTICIPATED REQUIREMENTS TO BE CONTAINED IN EACH SOLICITATION TO PROMOTE THE MAXIMUM PRACTICABLE OPPORTUNITY FOR SMALL BUSINESS CONCERNS" TO SUBMIT OFFERS. THE MANDATE TO REDUCE REQUIREMENTS IN ORDER TO PROMOTE SMALL BUSINESS PARTICIPATION IS COMMENDABLE AND WE WOULD HAVE NO OBJECTION TO IT AS AN INDEPENDENT PROVISION. THE REQUIREMENT, HOWEVER, IS MADE SUBJECT TO THE "APPEAL PROCEDURE" REFERRED TO EARLIER. FOR THAT REASON, WE WOULD OPPOSE THE SECTION AS WRITTEN.

SECTION 15(b)(3) WOULD REQUIRE THE HEAD OF EACH PROCUREMENT ACTIVITY TO JUSTIFY EACH SOLE SOURCE PURCHASE OF SPARE PARTS IN TERMS OF ONE OF FIVE STATED STATUTORY BASES. AGAIN, STANDING ALONE, THE PRE-CONDITIONS FOR SOLE SOURCE PROCUREMENT OF SPARE

OR REPLACEMENT PARTS MIGHT BE DEFENSIBLE. AS DRAFTED, HOWEVER, THE PROVISIONS ARE OBJECTIONABLE. FIRST, THEY ARE COUPLED, AS NOTED, WITH MANDATORY SBA INVOLVEMENT IN THE DECISION-MAKING PROCESS. SECOND, IF A SPECIAL PROBLEM EXISTS WITH RESPECT TO SOLE SOURCE PROCUREMENT OF SPARE OR REPLACEMENT PARTS IT IS NOT UNIQUE TO SMALL BUSINESSES; STANDARDS FOR PROCURING SUCH PARTS SHOULD BE IN LEGISLATION PERTAINING TO FEDERAL PROCUREMENT, GENERALLY, RATHER THAN IN AMENDMENTS TO THE SMALL BUSINESS ACT.

NEW SECTIONS 15(e) AND 15(f) CONSIST OF MORE PRECISE STATEMENTS OF FOUR PRIORITIES FOR SMALL BUSINESS LABOR SURPLUS AREA SET-ASIDES SET FORTH IN CURRENT LAW. WE HAVE NO OBJECTION TO THESE CHANGES.

SECTION 4(e) OF THE BILL WOULD AMEND SECTION 15(j) OF THE SMALL BUSINESS ACT TO REQUIRE THAT EVERY CONTRACT OF $25,000 OR LESS BE SET ASIDE FOR SMALL BUSINESS UNLESS NO SMALL BUSINESS COMPETITION EXISTS. THE PRESENT REQUIREMENT IS FOR AN EXCLUSIVE RESERVATION FOR SMALL BUSINESS OF ALL CONTRACTS LESS THAN $10,000 IF THE CONTRACT IS SUBJECT TO SMALL PURCHASE PROCEDURES. WE CANNOT SUPPORT SECTION 4(e) BECAUSE IT WOULD REQUIRE THE CONTRACTING OFFICER ON EACH PROCUREMENT OF $25,000 OR LESS, WITHOUT REGARD TO WHETHER SMALL PURCHASE PROCEDURES WERE USED, TO SOLICIT OFFERS AND COMPARE PRICES RECEIVED BEFORE HE COULD MAKE A DETERMINATION NOT TO SET THE PROCUREMENT ASIDE.

PROPOSED SECTION 15(j)(2) PROVIDES, WITH RESPECT TO CONTRACTS OF $25,000 TO $2,000,000, THAT THE CONTRACTING OFFICER SHALL PRESUME THAT THE CRITERIA FOR A SET-ASIDE EXIST OR THAT THE PROCUREMENT IS SUITABLE FOR AN 8(a) AWARD, UNLESS THE HEAD OF THE BUYING ACTIVITY DETERMINES THAT THE PRESUMPTION IS UNWARRANTED. THESE PRESUMPTIONS - APPLICABLE TO ALL PROCUREMENTS OF ANY NATURE BETWEEN $25,000 AND $2,000,000 - ARE UNREALISTIC AND WOULD NEEDLESSLY REQUIRE "REBUTTING" DETERMINATIONS IN UNTOLD NUMBERS OF INSTANCES. FURTHER, THE DETERMINATION TO REBUT WOULD ITSELF BE SUBJECT TO AN APPEAL BY THE SBA TO A DEPARTMENTAL SECRETARY OR AGENCY HEAD. SECTION 15(j)(2) WOULD, THEREFORE, IMPOSE AN INTOLERABLE BURDEN ON THE PROCUREMENT PROCESS.

SECTION 5

SECTION 16 OF THE SMALL BUSINESS ACT CURRENTLY PROVIDES THAT FALSE STATEMENTS, OVERVALUATIONS, ETC. MADE TO OBTAIN A LOAN, ACCEPTANCE OF SECURITY, ETC. OR MADE TO INFLUENCE THE ACTION OF THE SBA OR TO OBTAIN MONEY FROM IT, SHALL BE PUNISHABLE BY FINE OR IMPRISONMENT.

SECTION 5 OF H.R. 2133 WOULD EXTEND THE RANGE OF SUCH PUNISHMENT TO COVER FALSE STATEMENTS, OVERVALUATIONS, ETC. MADE IN CONNECTION WITH CONTRACTS AND SUBCONTRACTS SUBJECT TO THE SMALL BUSINESS ACT. WE HAVE NO OBJECTION TO THIS SECTION.

WHILE I CANNOT SUPPORT H.R. 2133, AS WRITTEN, I DO BELIEVE THE PRESIDENT'S EFFORTS TO INCREASE COMPETITION IN FEDERAL PROCUREMENT WILL BE OF ASSISTANCE TO SMALL BUSINESS. AS A GENERAL RULE, THE MORE COMPETITION WE CAN ACHIEVE IN FEDERAL PROCUREMENT, THE BETTER OFF SMALL BUSINESS WILL BE. EXECUTIVE ORDER 12352 OF MARCH 17, 1982, CALLS ON THE AGENCIES TO "ESTABLISH CRITERIA FOR ENHANCING EFFECTIVE COMPETITION AND LIMITING NON-COMPETITIVE ACTIONS." SUCH CRITERIA INCLUDE ELIMINATING AND SIMPLIFYING GOVERNMENT SPECIFICATIONS, EXPANDING THE PURCHASE OF AVAILABLE COMMERCIAL PRODUCTS, USING FUNCTIONALLY-ORIENTED SPECIFICATIONS, AND IDENTIFYING AND ELIMINATING UNNECESSARY BURDENS ON PRIVATE INDUSTRY. SURELY, SMALL BUSINESS WILL SIGNIFICANTLY BENEFIT FROM THESE IMPROVEMENTS IN OUR PROCUREMENT PROCESS.

AS A FOLLOW-UP, ON AUGUST 11 OF THIS YEAR, THE PRESIDENT AGAIN STRESSED IN A MEMORANDUM TO THE DEPARTMENTS AND AGENCIES THE OVER-RIDDING IMPORTANCE OF COMPETITION AND DIRECTED ME, AS ADMINISTRATOR OF THE OFFICE OF FEDERAL PROCUREMENT POLICY, TO ISSUE A POLICY DIRECTIVE ESTABLISHING RESTRICTIONS ON NON-COMPETITIVE PROCUREMENT. SIGNIFICANTLY, THE PRESIDENT'S MEMO ALSO RECOGNIZED AND ENDORSED PROGRAMS OF CONTRACTING WITH MINORITY FIRMS. ON AUGUST 12 I ISSUED, FOR PUBLIC COMMENT, AN OFPP POLICY LETTER STRESSING COMPETITION IN FEDERAL PROCUREMENT AND RESTRICTING NON-COMPETITIVE PROCUREMENT. THE POLICY LETTER ALSO PROVIDES THAT THE NON-COMPETITIVE RESTRICTIONS "ARE NOT INTENDED TO ADVERSELY AFFECT SUCH CONGRESSIONALLY-MANDATED

PROGRAMS AS THOSE DEALING WITH SMALL, MINORITY AND DISADVANTAGED BUSINESSES OR SUCH PRESIDENTIAL INITIATIVES AS THOSE DEALING WITH THE ESTABLISHMENT OF MINORITY BUSINESS GOALS."

WITH RESPECT TO MINORITY BUSINESS GOALS, THERE HAVE BEEN SEVERAL RECENT PRESIDENTIAL INITIATIVES WORTH NOTING. FIRST, ON DECEMBER 17, 1982 THE PRESIDENT ISSUED HIS STATEMENT ON MINORITY BUSINESS WHICH ADVISED THAT THE FEDERAL GOVERNMENT WILL PROCURE AN ESTIMATED $15 BILLION IN GOODS AND SERVICES FROM MINORITY FIRMS DURING THE THREE YEAR PERIOD OF FY 1983, 1984 AND 1985, EXCLUSIVE OF AN ESTIMATED $6 TO $7 BILLION TO BE PROCURED OVER THOSE THREE YEARS FROM MINORITY BUSINESSES BY RECIPIENTS OF FEDERAL GRANTS. SECOND, ON JULY 14, 1983, THE PRESIDENT ISSUED EXECUTIVE ORDER 12432. THIS ORDER INVOLVES THE CABINET COUNCIL ON COMMERCE AND TRADE (CCCT) IN THE FEDERAL MINORITY BUSINESS PROGRAM. IT REQUIRES DEVELOPMENT OF ANNUAL MINORITY BUSINESS DEVELOPMENT PLANS AND PROVIDES FOR CCCT REVIEW OF THE IMPLEMENTATION OF SUCH PLANS. FINALLY, THE PRESIDENT'S MEMORANDUM OF AUGUST 5, 1983 URGES ACTIVE AND POSITIVE CONSIDERATION BY THE FEDERAL AGENCIES OF MINORITY FIRMS LEAVING THE 8(A) PROGRAM.

MINORITY FIRMS ARE, ALMOST ENTIRELY, SMALL FIRMS AND THESE PRESIDENTIAL INITIATIVES SHOULD, WHEN ADDED TO OUR EFFORTS UNDER P.L. 95-507, ASSIST THESE SMALL MINORITY ENTERPRISES.

MR. CHAIRMAN, THIS CONCLUDES MY TESTIMONY. I WILL BE PLEASED TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

Mr. **Bedell**. Thank you very much. Mr. Haugh.

I see Admiral Sansone is still here. I understand that you do have a report on the clawhammer incident.

Is it possible for the committee to get a copy of that, Admiral?

Admiral **Sansone**. Yes, sir, Mr. Chairman. I would be pleased to so so.

Mr. **Bedell**. OK. We would appreciate it.

If you would send it to the committee, the staff will then distribute it to the various committee members.

Thank you.

Admiral **Sansone**. Thank you.

[See appendix C.]

Mr. **Bedell**. Mr. Addabbo?

Mr. **Addabbo**. Relative to consolidations, there was revision to OMB Circular A-76, and we now understand that consolidations are still taking place.

Mr. **Haugh**. Well, I am sure that there is some consolidation going on. Indeed, the language that was agreed to or worked out with the Small Business Committee staff left some discretion with the military commanders as to the extent of consolidation that was feasible in each case.

Mr. **Addabbo**. Well, are you looking at those cases to make sure, giving them direction that those packages should be such that small businesses are capable of performing them or bidding them?

Mr. **Haugh**. We are not looking at those packages individually, no, sir.

Mr. **Addabbo**. Not individually, but in your Office of Federal Procurement, are you giving directives to that extent, that the umbrella contract or contracting or packaging should be such that small business can still bid on it, but this is not going to be just packaging that only big business may bid on it?

Mr. **Haugh**. We have not issued any guidance other than what is in the revised A-76 circular which went out on August 4.

Mr. **Addabbo**. If we are going to protect small business which the first change in circular A-76 does not do because changes from small business contracting out to one umbrella which only a large corporation could bid on; in view of the fact that we hopefully, that the administration is still promoting small business, and you are the Office of Procurement Policy, would it not behoove you to send out a directive that would make sure the packaging does not eliminate the small business capability of performing or bidding on it?

Mr. **Haugh**. Well, I don't think we could read what went out as a directive to package. The language, Mr. Addabbo, reads that agencies should package commercial activities for potential contracts to maximize economies and efficiencies and comply with provisions and goals for prime and subcontract awards to small and small disadvantaged business, pursuant to Public Law 95-507.

So, they are being reminded of their responsibility to comply with 95-507, at the same time that they would be reminded of the responsibility for efficient contracting.

Mr. **Addabbo**. But there is no stressing on small business packaging?

Just leaving it at what came out of DOD, you have not interjected your office into the Federal procurement practices? Correct?

Mr. HAUGH. We have not issued anything further on that, no, sir.

Mr. ADDABBO. So, in other words, as usual, DOD can go dance in its own merry way. What are DOD's fiscal year 1984 goals, both prime and subcontract awards to small minority businesses?

Mr. HAUGH. What are their goals?

Mr. ADDABBO. What are they? Have they been set as yet?

Mr. HAUGH. I do not know whether they have yet agreed on fiscal year 1984 goals. I think they are in the process of negotiating those goals with the Small Business Administration. We would be glad to try to find out and supply that information.

Mr. ADDABBO. I wish you would. I mean, this is only the second week, the end of the first week in the fiscal year. You have had those figures all year, so it is strange that we get into the fiscal year to first start deciding those goals.

When did you get your fiscal year 1983 goals?

Mr. HAUGH. Well, we are, Mr. Addabbo. We are not in the goal-setting business. There has been an effort to establish those goals each year a little bit earlier in the fiscal year. I know that in some of the early years after Public Law 95-507 was enacted——

Mr. ADDABBO. Is DOD exempt from the Office of the Federal Procurement Policy?

Mr. HAUGH. No, they are not.

Mr. ADDABBO. So, do you not set policy for them, too? Any agency is supposed to be setting the goal and you tell me that for its DOD when they get around to it. Now, we are into 1983, and maybe that is part of this problem. But they have no urgency; there is no set policy within your office that does this.

I mean, we are into 1984; we are into 1984 fiscal year and you tell me DOD hasn't done anything, maybe they will do it; maybe they will not.

Mr. HAUGH. We don't think that is a question of policy, Mr. Addabbo.

Mr. ADDABBO. Why is it?

Mr. HAUGH. The goal-setting requirement——

Mr. ADDABBO. Why is it? Isn't it a policy to determine that small business be given its fair share of procurement, that we deal with small business in spare parts in that policy?

What is that? Who said, what is policy? You tell me what the policy is. Federal procurement policy is not only big business? Does DOD look to small business?

Mr. HAUGH. We have implemented Public Law 95-507 in policy letter——

Mr. ADDABBO. Except for DOD; DOD is exempt.

Mr. HAUGH. No. The Public Law 95-507 is very clear that the requirements for goal-setting——

Mr. ADDABBO. I would hope that it would be pretty clear.

Mr. HAUGH. The requirement for goal-setting is on the Small Business Administration and only when they cannot agree on goals that the Office of Federal Procurement Policy becomes involved in reconciling goals.

Mr. ADDABBO. And you don't monitor DOD. Hey, how come you are not looking at your statistics; how come you are not following procedures?

Mr. HAUGH. No, we do not monitor those goals, no.

Mr. ADDABBO. Nothing at all to do with goals. As far as small business procurement is concerned, do you have any policies on spare parts?

Mr. HAUGH. We have recently published for public comment a policy to restrict noncompetitive procurement which I think will get at the spare parts problem.

Mr. ADDABBO. Obviously.

Mr. HAUGH. On August 12, this was published for public comment. The comment period ends this month.

Mr. ADDABBO. Not too good. And what happens after that?

Mr. HAUGH. After we have a chance to review those comments, we will finalize that policy letter and hopefully publish it for implementation by the agencies.

Mr. ADDABBO. When?

Mr. HAUGH. I would expect within 60 days of the time that the public comment period ends that we would have that finalized.

Mr. ADDABBO. By the early part of January, you should have it finalized?

Mr. HAUGH. Yes, sir.

Mr. ADDABBO. You will submit a copy to the committee?

[The information is available in the subcommittee's files.]

Mr. HAUGH. Yes, we certainly will.

Mr. ADDABBO. Thank you.

Mr. BEDELL. Mr. Bilirakis?

Mr. BILIRAKIS. I have no questions, Mr. Chairman.

Mr. BEDELL. Mr. Britt?

Mr. BRITT. The only question I would have is that throughout these hearings we have had, the problem of accountability is clearly a serious problem.

We have asked, well, who is responsible? Who makes decisions? Where does the buck stop? And the answer is: The buck doesn't stop.

We have had businessmen. We have had generals. We have had a whole line of people who have been asked that question, and cannot answer.

Is this something that the Office of Federal Procurement Policy can do something about, establish accountability in the process?

Mr. HAUGH. Yes, and I think that is something that we are working on a great deal.

One of the requirements—one of the things we called for in our proposal to the Congress for a uniform Federal procurement system a year ago last February was for the establishment of a management system for the entire procurement system, and the key individual in that management system in each department would be a procurement executive who would be the focal point for management of the procurement system.

When President Reagan signed Executive Order 12352 on March 17, 1982, one of the key features of that was a requirement that every agency head appoint that procurement executive, and we now have a network of 44 procurement executives in the larger agencies.

Mr. BRITT. Is this an attempt to decentralize the decision end?

Mr. HAUGH. No, this is an attempt to have a focal point for the management of the procurement function in each department and to establish accountability.

One of the functions of that procurement executive will be to establish standards and criteria for measuring the performance of the procurement system in his agency, and this goes right down to the performance of individuals at the procuring activity level, and certifying to his agency head that his procurement system is meeting established criteria.

Mr. BRITT. I would recommend that each of those procurement executives review the testimony of these last 2 days for the incentives that have been suggested and some of the other processed end of procurement that might change because there has been some very informative testimony about these topics. The incentives are all wrong.

Thank you. Mr. Chairman.

Mr. BEDELL. Mr. Ray?

Mr. RAY. Thank you, Mr. Chairman.

Mr. Haugh, is this management system for overall Federal procurement something that's under study? Is that in the development stage?

Mr. HAUGH. It is somewhere between being developed and being put into place.

It was one of the things that was required of our office by Public Law 96-83 when we were reauthorized in 1979, to present to the Congress a proposal for a procurement system and a management system and whatever legislation was needed to put those into effect.

We have prepared that proposal; we have established a basis for that management system through the proposal and through Executive Order 12352 and are developing guidance for those procurement executives now to put that system in place.

Mr. RAY. Would that have been put together with in-house expertise, or are we going out into the markets to bring in the experts.

In this country, we have some engineering men who work very well with General Motors and continue to work very well with a greater number of other people who have an excellent record of inventory control, although it does not compare with the massive program that Defense would have, increasing all the time.

But we do have expertise to buy a part for a Model T Ford, if you want to wait 5 or 6 weeks for it. And I just happen to know where a part for a lawnmower that is 17, 18, 19 years old, that you can go buy, in 5 weeks, but I know that it can be done.

Now, it is massive. I am not naive about it, but I just wondered if we had gone into the real areas of expertise and brought some of those people together to account for that and put together this tremendous problem of overall Federal procurement system. It has got to work some either way, sooner or later.

Mr. HAUGH. Well, the development of the procurement system proposal was largely an in-house effort, but it was subject to public comment at various stages, and we had a network of industry associations who were giving us the benefit of their input.

We also have that same network of industry associations giving us comments now on the implementation of the Executive order.

Mr. RAY. I was just wondering if we are taking advantage of some of the expertise that we can get at this time?

Mr. HAUGH. Yes, sir.

Mr. BEDELL. Mr. Sisisky?

Mr. SISISKY. Just one short question, Mr. Chairman.

Regarding minority business goals, I think you have talked about the President's directive of December 1982. You talked about $15 billion over a 3-year period. How are you doing with that at the present time? Now that year is almost over now.

Mr. HAUGH. I do not know how close they came to meeting the target or the goal for fiscal year 1983. That was the first year of the 3-year period. We will not have any valid returns on that for perhaps another 60 days.

Mr. SISISKY. Who manages that program?

Mr. HAUGH. The goals would be reported by or through the Federal Procurement Data Center. The Small Business Administration monitors performance against both small business and minority business goals.

Mr. SISISKY. You do not monitor the program while it is progressing because you know what could happen very easily. If you do not monitor it, you wait to the end of the 3-year period, and what will happen is that you are going to have many contracts that will be processed that will not meet the goals if someone is not monitoring the program as it goes along.

Mr. HAUGH. Well, there is some monitoring as it goes along. There is a quarterly reporting requirement set up under Public Law 95-507.

Each contractor who has subcontract plans and goal requirements under those plans submits a report to his contracting agency or agencies showing what progress he is making toward meeting the goals in those plans so that there is at least some way of keeping track of his progress.

Mr. SISISKY. Mr. Chairman, I would like the committee to get a report on this list of other areas of the small business community goals, of their immediate goal, when it is available.

Mr. BEDELL. OK, now, I will ask the question: How do we get it?

Mr. HAUGH. We can make sure that you get a report on performance against the fiscal year 1983 goals as soon as it is available.

Mr. BEDELL. When do you think that can be done?

Mr. HAUGH. It is generally the beginning of the second quarter before the complete results for the prior year are available, so it would be in January.

[The report is available in the subcommittee files.]

Mr. BEDELL. You have been here for the testimony we have had today, Mr. Haugh?

Mr. HAUGH. Yes, sir.

Mr. BEDELL. Did you hear the colloquy with the procurement people from the armed services? If I understood them correctly, once they understood what the bill was, their main concern was that they felt it might involve an awful lot of paperwork if they were required to accept bids on everything all the way down to $1,000.

At least my impression was that that was their main objection. If we changed the bill to exempt those purchases under $1,000, we would not have so much trouble with it. It essentially said anybody can bid, but then we do have the discretion to disqualify a bidder after we checked the bidder out, and feel that he required the certificate of competency. Does that hit take care of your concerns in that area? Would that take care of it?

Mr. HAUGH. It does, in part. I think that there may be some misunderstanding as to just what a qualified bidders' list is, and, as I gathered from the testimony that General Skeen was providing, they are not necessarily talking about prequalified bidders, but rather about bidders' lists for common-use items; and any bidder, potential bidder who wants to can get on a bidders' list simply by submitting the standard form to the agency that he wants to do business with.

Mr. BEDELL. That is not our understanding. Our understanding is that you have got to go through a whole ordeal in order to get a certificate of competency in order to be able to bid at this time.

Do you feel that was what was happening?

Mr. HAUGH. Well, if we are talking about special items, that may be true—items that are considered critical to life-safety or something of that nature. But if we are talking about nuts and bolts and washers and things that are common-use items, I do not know that there is any restriction about having someone get on that bidders' list and be part of the rotation.

Mr. BEDELL. So, you would not have problems, if we say that anybody can bid as long as we did put a limit on how many purchases can be made for under $1,000?

If we exempt purchases of under $1,000, we are saying anybody can bid, and then if there is a low bid, then they will have to get their certificate of competency or not be approved. You would not have trouble with that, then?

Mr. HAUGH. Well, the only problem I would have with it is a question of how those small business firms would know that such procurements were going on.

Mr. BEDELL. That is their problem, but that is not a problem to you, so would that give you trouble with the bill, then?

Mr. HAUGH. I do not see any problem with it from that respect, no.

Mr. BEDELL. OK. Good. One of the problems, we didn't talk about it today is the problem of items being marked proprietary. We have sole source purchases on a common bolt because a common bolt as part of a larger unit purchased is considered proprietary.

Do you have any suggestions as to how we should handle that legislatively?

I think this committee is going to want to legislate. It is required for this to be done differently, simply because the directive, in the opinion of the Chair, clearly shows that over the years we have had hearings and hearings and hearings, and nothing particularly happened.

But I think the committee is interested in trying to draft legislation that will not be unfair to the purchasers and will work well but which will not simply say, well, we want you to do things better, and we are going to go home, and you are going to go home, and we will accomplish it. It would never work that way.

Do you have opinions as to what we have got to do to handle those proprietary problems?

Mr. HAUGH. Well, I don't have any answer from a legislative standpoint. My own opinion is that the problem really is one of resources in the agencies that are buying hardware, that they do not have the resources to screen the data that they receive to make sure that the data is usable, that it is not unnecessarily restrictive data or that it is not marked proprietary if, in fact, it is not; or if they do need it for competitive reprocurement that they make sure that they get rid of the proprietary markings, things of that nature.

But my experience over the years has been that we simply get the data, we do not have the resources to review it and make sure that it is usable for our needs, and it gets into the system, and we go on year after year buying.

Mr. BEDELL. I understand that there is a proposal in the Senate that would require the services to purchase the technical data whenever they purchase an airplane or whatever else it may be. Under that bill the Governnment is to obtain whatever is necessary in order to have those specifications. This would help get competitive bidding on parts when they need to purchase spare parts.

What would you think of that proposal?

Mr. HAUGH. I think you would have to leave some discretion to the agency.

Mr. BEDELL. That is the problem because whenever the agency has discretion, in this gentleman's opinion, it uses this discretion in ways different from those that the Congress intends.

If you were going to try to tie it down so that they would, indeed, not be buying hammers from McDonnell Douglas, if that is what they are doing, because McDonnell Douglas is saying that the part is proprietary. That may not be a fair example, but a washer certainly is. How would you legislate that? I am not saying we ought to do that, because I did not want to propose that as you probably know.

Mr. HAUGH. Well, it may be that we do not need or do not want the data for the entire airplane and every part in it so that I think there needs to be some rule to decide in advance what parts you want to be able to buy competitively or can be procured competitively and lose your date requirements or do not get loaded down with data that you cannot absorb, and that we have the resources then to screen the data that we do get, and go out for reprocurement.

Mr. BEDELL. I realize that. See, you are saying just leave it out in orbit, to decide whether the Government should have the drawings or have a proprietary. At least this man in Government is not comfortable with that.

Another proposal that has come forth and that states that proprietary ownership would not last for more than 3 years.

What would you think of that proposal?

Mr. HAUGH. Proprietary ownership of proprietary rights?

Mr. **Bedell**. Suppose I design and build an airplane. Then I would only have proprietary rights on the parts of that airplane for a 3-year period.

Mr. **Haugh**. My own opinion is that I am not sure how effective that would be if the original aircraft manufacturer is going to be the sole source from that point on for the first 3 years.

It is highly unlikely that the requirements for the remaining years would be sufficient to warrant going out and establishing a separate source, if you are talking about the entire aircraft.

Mr. **Bedell**. Then you do have objection to it. You don't think it would work. You would be a concerned whether it would go as far as we should go in trying to handle the proprietary problem?

Mr. **Haugh**. Well, if we are talking just about parts, it probably could work that way, that after a certain period of time, those data would become available for competitive reprocurement and the original manufacturer would transfer his rights.

Mr. **Bedell**. I have no further questions. Does anybody else have questions?

[No response.]

Mr. **Bedell**. We thank you very much. We particularly appreciate the fact that you have been here so long. Thank you for being with us.

I should advise the members of the subcommittee it would be the Chair's contention that if the things went all right, to have a markup probably on the first Wednesday after we get back.

I do not want to run this through without proper consideration. On the other hand, I think that it is much better for us to start the consideration and take some time in our deliberations rather than simply wait before we get started.

Is there any disagreement with having that meeting?

[Chorus of noes.]

Mr. **Bedell**. If not, our tentative plan will be to have a markup session on the Wednesday following the recess.

With that, the subcommittee is adjourned.

[Whereupon, at 3:44 p.m., the subcommittee adjourned, to reconvene, subject to call of the Chair.]

APPENDIX A.—ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD BY JON WILLIAMS, PRESIDENT, ASSOCIATION OF SOUTHWEST GOVERNMENT CONTRACTORS

ADDENDUM TO TESTIMONY:

BRIEF PERSONAL BACKGROUND OF:
JON C. WILLIAMS
529 CADUCEUS LANE
HURST, TEXAS

EMPLOYMENT: OWNER OF AERO COMPONENTS COMPANY, 423 DODSON LAKE DRIVE, ARLINGTON, TEXAS.

PERSONAL STATUS RELATING TO ISSUES:

1. NOMINEE FOR 1983 SMALL BUSINESS PRIME CONTRACTOR OF THE YEAR BY THE SMALL BUSINESS ADMINISTRATION.
2. RECIPIENT OF THE UNITED STATES SMALL BUSINESS ADMINISTRATOR AWARD OF EXCELLENCE IN 1983.
3. PRESIDENT OF THE ASSOCIATION OF SOUTHWEST GOVERNMENT CONTRACTORS.
4. ACTIVE SPEAKER SMALL BUSINESS DEFENSE AFFAIRS.

EXTENSION OF TESTIMONY:

TO PROVIDE A MORE CONCISE EXPLANANTION OF MY BRIEF TESTIMONY, I SUBMIT THE FOLLOWING FOR THE RECORD:

ATTACHMENT "A" PAGES 1 THRU 4 REPRESENTS OUR FIRST SMALL BUSINESS COMBINED EFFORT TO HAVE THE DEFENSE INDUSTRIAL SUPPLY CENTER RECIND THE RESTRICTIVE "L06" CLAUSE. THIS LETTER WAS MAILED TO APPROXIMATELY 2000 DEFENSE LOGISTICS AGENCY CONTRACTORS.

ATTACHMENT "B" PAGES 1 THRU 5 IS MAJOR GENERAL CONNOLLY LETTER DATED 83MAR30, ADMIRAL GRINSTEAD PRIORITY MESSAGE DATED 83APR09 AND ADMIRAL GRINSTEAD LETTER DATED 83APR10 ON USE OF "PRODUCTS OFFERED CLAUSE" IN LIEU OF "L06" CLAUSE AT THE DEFENSE INDUSTRIAL SUPPLY CENTER.

ATTACHMENT "C" PAGES 1 THRU 4 CAPTAIN W.I. AUSTIN, USN OFFICIAL 83MAR09 DIRECTION TO DLA CENTERS TO USE "PRODUCTS OFFERED CLAUSE" IN PROCUREMENT OF SPARE PARTS.

ATTACHMENT "D" PAGES 1 THRU 3 IS IN REGARD TO 83APR20 MEETING WITH GENERAL SKEEN IN DALLAS, TEXAS.

ATTACHMENT "E" IS THE SECRETARY OF DEFENSE WEINBERGER WRITTEN RESPONSE TO DEFENSE LOGISTICS ACTIONS.

ATTACHMENT "F" PAGES 1 THRU 3 IS GENERAL E.M. POE JR. WRITTEN RESPONSE TO AVAILABILITY OF SOLICITATIONS AT AFLC AGENCIES.

THE "PRODUCTS OFFERED CLAUSE" PAGES 2 THRU 4 OF ATTACHMENT "C" HAS MANY OF THE SAME RESTRICTIVE BARRIERS THAT WE CHALLENGED IN THE "L06" CLAUSE. THE REQUIREMENTS PLACED UPON SMALL BUSINESS FIRMS BY THE "PRODUCTS OFFERED CLAUSE" TO SUBMIT DRAWINGS, SOURCES OF SUPPLY, ORIGINAL EQUIPMENT MANUFACTURERS AND APPROVALS FOR DLA REVIEW PRIOR TO QUOTE CONSIDERATION HAS PLACED A PAPERWORK NIGHTMARE ON BOTH THE GOVERNMENT AND INDUSTRY. IN MANY INSTANCES THE GOVERNMENT IS IN POSSESSION OF THE DATA AND REFUSES TO USE THE DATE FOR COMPETITION PURPOSES. DLA APPROVAL OF DATA IS A LENGTHY PROCESS AND IMMEDIATE AWARDS ARE NOT HELD UP WHILE AWAITING ENGINEERING APPROVALS.

THE GOVERNMENT THRU ITS METHODS OF PROCUREMENT, POLICIES AND REGULATIONS IS ATTEMPTING TO LEGISLATE CONTRACTOR CREDIBILITY AND HONESTY INTO THE SYSTEM. CONTINUED WRITING OF POLICIES AND REGULATIONS WILL NOT STOP THOSE CONTRACTORS THAT HAVE BEEN AND OR ACCUSED OF SUPPLYING BOGUS, FOREIGN OR SUBSTANDARD ITEMS TO THE GOVERNMENT. THESE RESTRICTIVE REGULATIONS AND POLICIES ONLY HURT THOSE CONTRACTORS WHO ARE CREDITABLE AND HONEST. A SYSTEM OF DEFENSE CONTRACTORS ADMINISTRATION OFFICES ARE IN PLACE THROUGHOUT

THE NATION TO PROVIDE INSPECTION AT SOURCE. THE SERVICES UTILIZE THESE AGENCIES TO PROVIDE QUALITY SURVEILANCE OVER COMPANIES. THEY SHOULD BE USED BY THE DEFENSE LOGISTICS AGENCY CENTERS IN LIEU OF MORE REGULATIONS AND POLICIES.

THE SINGLE MOST IMPORTANT ISSUE IS THAT THE DEPARTMENT OF DEFENSE TAKE THE NECESSARY TIME AND STEPS TO LOCATE THE NECESSARY DATA TO COMPETE MILITARY WEAPONS SPARES.

SMALL BUSINESS PROCUREMENT CENTER REPRESENTATIVES AND SMALL BUSINESS TECHNICAL REPRESENTATIVES MUST BE PROVIDED WITH THE NECESSARY SPACE AND GS RATINGS TO INSURE THAT THEY ARE RESPECTED AT THE DEPARTMENT OF DEFENSE CENTERS.

RESPECTIVELY SUBMITTED,

JON C. WILLIAMS
PRESIDENT - AERO COMPONENTS COMPANY

THE COMPLEXITIES OF THE PROBLEMS THAT ARE ASSOCIATED WITH THE DEPARTMENT OF DEFENSE REGULATIONS AND POLICIES ARE VERY DIFFICULT TO SUMMARIZE WITHOUT AN INDEPTH INVESTIGATION OF THOSE REGULATIONS AND POLICIES AND THEIR LEGAL RAMIFICATIONS.

ATTACHMENT "A"

LO-6 Information Letter

Are you aware of the disastrous consequences of certain Procurement Directives which have recently occurred in the Defense Logistics Agency? Shortly after transfer of approximately 200,000 line items of replacement parts from the Department of Defense (Army, Navy and Air Force) to this agency, the Defense Logistics Agency issued the L0-6 Clause, or similar clauses (i.e. DCSC, DESC). The practical effect of the L0-6 Clause was to limit procurement to the OEM or his approved source (manufacturer or dealer). While the application of the L0-6 Clause has been ostensibly broadened to include any manufacturer who may make an alternate offer, this program is extremely limited in its application since the bidder (not the Government) must provide in his alternate offer all drawings and technical data which in turn has to be evaluated by Technical Support Groups of the DOD Agency responsible for the procurement of this item prior to its being transferred to the Defense Industrial Supply Center (for example) before the bidder is qualified for award. Some of the implications of this program are listed below:

1. If you cannot locate data which you must prove that you have a legal right to, your bid will be rejected.
2. Due to the extensive delay required to evaluate and process the drawings and technical data and qualify you for award (45 days to several months), it appears that very few bidders will be eligible for award but must wait until next solicitation. (In the meantime, the bid goes to the OEM or approved source.)
3. No provision has been made for qualifying firms who have previously furnished this item to the Government except that you can submit your drawings and data for Government evaluation like everyone else and hope for an award.
4. Dealers of non-OEM have been effectively eliminated from competition.

Preliminary studies which we have made, reflect a severe drop in orders awarded by the Defense Industrial Supply Center to Small Business and a corresponding increase in awards to Big Business and their approved sources at an average price increase of three to five times for OEM.

In short, whether you are aware of this or not, most of your prior business at DISC, DCSC, etc., and any procurement of the replacement items mentioned above has been effectively wiped out by this L0-6 procedure. We believe that all Small Businesses have a common interest to combat the DLA regulation which clearly restricts competition and violates procurement statutes and policies.

We are proposing several alternatives which we are prepared to undertake: 1) Bring this matter to the attention of the Secretary of Defense and to Congressional leaders from President Reagan on down; 2) File a bid protest to the United States General Accounting Office with every bid submitted to DLA Commands, DISC, DCSC, etc.; 3) Finally give serious consideration to filing a Class Action Suit in Federal Courts for Injunctive Relief and Restraining Orders due to Violation of Federal Statutes.

We believe this matter is the most serious challenge to the survival of Small Business concerns that we have ever encountered. We need your collective support. Together we can muster the resources to engage in this collective action. We need to demonstrate the impact of limiting awards to OEM/approved sources upon the survival of Small Business and the huge increases in our defense budget caused by the use of restrictive competition which is being applied.

To implement this program we need your financial support; this fight will cost money. Please send $200.00 (or whatever you feel like you can justify). In addition, we will be requesting that you furnish pertinent data related to your experience with DLA commands. We would like to represent your interests and ideas, which you are encouraged to furnish to us, to be incorporated into a study to be used to demonstrate the problems and impact discussed above.

Please make checks payable to:

Theodore C. Huke
Attorney At Law
305 Loop 820 N.E., Suite 515
Hurst, Texas 76053

All of these matters will be discussed in detail at a meeting sponsored by the Association of Southwest Government Contractors to be held March 3, 1983, 7:30 p.m. at Ramada Inn Central, 2000 Beach Street, Fort Worth, Texas. There is no requirement to join this Association but we are seeking your support for the actions of the L0-6 Committee. If you need assistance with reservations, please feel free to contact any of the undersigned.

While we realize this is short notice, every day we delay has a significant cost impact upon our livelihood.

Finally, whether you join our group or not, we need your assistance in making our presentation to the Secretary of Defense. It is imperative that you furnish the information requested by the attached enclosure no later than one week from the date of receipt of this letter so that this information can be incorporated in our study to convince the Government of the seriousness of this problem.

COMMITTEE TO ABOLISH L0-6

A.G.H. INDUSTRIES, INC
(817) 531-3688

Floyd R. Wade
WADE ENTERPRISES, INC.
(817) 731-2701

AERO COMPONENTS, INC.
(817) 265-3007

Floyd Carstevens
CROWN DISTRIBUTING
(817) 335-5707

ACCURATE WELD, INC.
(817) 923-0788

THEODORE C. HUKE
A PROFESSIONAL CORPORATION
ATTORNEY AT LAW

(817) 284-0241

306 LOOP 820 N.E., SUITE 515
HURST, TEXAS 76053

ANALYSIS OF BUSINESS ACTIVITIES RELATED TO DISC AND/OR DCSC PROCUREMENTS

Please furnish the following information for analysis of impact of the L0-6 and/or the L4-B Clause.

I. Background to be Supplied by Each Contractor

A. Years doing business

B. Years doing business with DISC/DCSC.

C. Description of his facility, including all manufacturing, packaging capability, etc.

   1. Describe extent of competitive bids on repeat orders furnished to the Government which are not considered eligible for award under L0-6 due to anticipated delay in approval of drawings and other data by DISC/DCSC.

D. Annual sales, last year or so.

E. Items of tooling owned by firms - (describe) for Government contracts.

F. Tooling for parts designed by OEM.

G. Annual sales to Government.

H. Annual sales to DISC/DCSC up to October 1982.

II. Impact of L0-6 and/or L4-B Upon Your Business

A. Recap of sales to DISC/DCSC based upon a four month period from November 1982 to February 1983.

B. Monthly recap of number of solicitations bid to DISC/DCSC prior to October 1982 and monthly average of value of orders received from DISC/DCSC during period from November 1982 to February 1983.

C. Give reasons why unable to qualify for bidding or to secure orders from DISC/DCSC, such as:

   1. Inability to bid without drawings on identical or similar items.

   2. Dealers would not bid with alternate offer if effect reveals his manufacture source and he would not receive source approval.

   3. Alternate offer meaningless as a competitive bid since time for Government evaluation precludes award.

   4. Prior bidder but not listed as qualified source.

   5. Prior source of supply (furnished to Government) but not recorded on data at DISC/DCSC as qualified.

   6. Was there evidence that drawing notes established Small Business set aside? However, no solicitation as a competitive bid was made by DISC/DCSC by furnishing such drawings to the bidder.

7. Previously bid on basis of technical data furnished by a military organization but now unable to qualify unless data approval received which is unlikely with delay factors involved.
8. Problems in securing release of data from OEM or approved sources who contend data is classified proprietary although the drawings are currently used for replacement parts.
9. Any other areas (please describe).

III. Cost Impact

Prepare brief analysis of DISC/DCSC procurements showing cost impact from prior bids or orders and price charged by OEM or approved source. List by contract, YPI (Purchase Request) or solicitation number if possible; quantities and comparison of unit price charged by Small Business versus OEM.

IV. Propriety Information

Would you advise whether you have any objection to the release of any part of this data to the Government. If so, state limitations upon the use of any data furnished to our group.

V. Data Related to DESC

While this information is limited to DISC/DCSC provisions, you may have similar problems with DESC (Dayton). If so, please furnish similar information related to this command's practices.

VI. Urgency

In order to complete our study, we need your input as to the effect of these clauses immediately. We urge you to take a few hours to complete this information which will be included in our presentation and mail to the undersigned no later than one week after receipt of this letter. We will, however, try to include any late mail up to time for printing our study but your early response would be very helpful.

TC Huke

Theodore C. Huke
Attorney At Law
305 Loop 820 N.E., Suite 515
Hurst, Texas 76053

(817) 284-0241

ATTACHMENT "B"

DEFENSE LOGISTICS AGENCY
HEADQUARTERS
CAMERON STATION
ALEXANDRIA, VIRGINIA 22314

30 MAR 1983

IN REPLY
REFER TO DLA-PPR

Mr. Jon C. Williams
President
Aero Components Company
423 Dodson Lake Drive
Arlington, Texas 76012

Dear Mr. Williams:

Thank you for taking time to meet with me and my staff on 18 March 1983 concerning the purchase of spare parts by the Defense Industrial Supply Center (DISC), Philadelphia, Pennsylvania.

With regard to the specific concerns you raised during our meeting, please be assured that we are reviewing the situation to determine what can be done to improve our procedures. We have already revised the solicitation clause entitled "Products Offered", a copy of which was given to you. We have contacted DISC, they have received distribution of the new clause and are expediting changes accordingly. In addition, representatives of the Directorate of Contracting at this Headquarters will be visiting DISC within the next week to review and discuss the application of our policies and procedures. Based upon any findings arising from the visit, we will be looking toward issuing specific guidance to improve and standardize evaluation and purchase of spare parts at all our contracting activities.

We appreciate your bringing these matters to our attention firsthand and giving us the opportunity to resolve them.

Sincerely,

Joseph H. Connolly

JOSEPH H. CONNOLLY
Major General, USAF
Deputy Director
(Acquisition Management)

****
* UNCLAS * 101 1706 *PRIORITY*
****

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ZNR UUUUU

B

P 091800Z APR 83

FM DLA CAMERON STATION ALEXANDRIA VA//DLA-D//

TO RUEDKEA/COMMANDER DCSC COLUMBUS OH

RUCLBGA/COMMANDER DGSC RICHMOND VA

RUEOMAA/COMMANDER DESC DAYTON OH

RUEOPNA/COMMANDER DISC PHILA PA//DISC-D/MAJ MARTINOUS//

INFO RUEOBKA/COMMANDER DPSC PHILA PA

RUWTNCA/DCASR DALLAS TX

BT

UNCLAS

SUBJECT: POLICY FOR SPARE PARTS PROCUREMENT

REFERENCE DLA TIME-PHASED PLAN FOR ASSUMPTION OF 200,000 ADDITIONAL CONSUMABLE ITEMS DTD NOV 81

1. THE POLICY PROMULGATED BY THE TIME-PHASED PLAN AT THE TIME OF TRANSFER OF ITEMS UNDER THE CIT PROGRAM WAS THAT THIS AGENCY WOULD BUY ITEMS AS THE SERVICES BOUGHT. THE POLICY SPECIFICALLY STATED THAT THE ITEMS BEING TRANSFERRED WOULD BE BOUGHT IN ACCORDANCE WITH SERVICE ASSIGNED AMC/AMSC AND FROM ALL SOURCES DEVELOPED OR IN THE PROCESS OF BEING DEVELOPED BY THE IMM. INSTANCES OF NON-COMPLIANCE WITH THIS POLICY HAVE RESULTED IN UNNECESSARY RESTRICTION OF COMPETITION.

2. EFFECTIVE IMMEDIATELY NO NEGOTIATED CONTRACTS OR PURCHASE ORDERS,

INCLUDING ALL SOLICITATIONS NOT AWARDED, WILL BE AWARDED TO OTHER THAN A PREVIOUS SUPPLIER TO THE MILITARY SERVICES, OR DLA, WHEN SUCH SUPPLIER IS THE LOW OFFEROR. THIS POLICY APPLIES TO ALL ITEMS

INCLUDING THOSE CLASSIFIED AS HAVING CRITICAL APPLICATION. THE ONLY EXCEPTIONS TO THIS POLICY WILL BE WHEN:

A. THE SUPPLIER IS KNOWN TO SUPPLY NONCONFORMING ITEMS.

B. THE MILITARY SERVICE SPECIFICALLY IDENTIFIES THE ACCEPTABLE SUPPLIERS AND DIRECTS RESTRICTIONS ACCORDINGLY (E.G., NAVSEA/DLA SHIPBOARD COMPRESSOR AND PUMP PROGRAM)

C. DEFINITE DETERMINATIONS OF NONRESPONSIBILITY ARE MADE. (HQ DLA, ATTN: DLA-PP, MUST BE ADVISED IN THIS SITUATION.)

D. THE CODES AND/OR SOURCES IDENTIFIED BY THE TRANSFERRING ACTIVITY ARE IN CONFLICT. IN THOSE CASES WHERE CODES OR SOURCES, OR AVAILABILITY OF ADEQUATE TECHNICAL DATA, IDENTIFIED BY THE TRANSFERRING ACTIVITY ARE IN CONFLICT, PRIOR TO ANY AWARD, THE FOLLOWING ACTIONS WILL BE TAKEN:

(1) MESSAGE WILL BE SENT TO THE COGNIZANT LIM AND/OR ESA REQUESTING CLARIFICATION AND ESTABLISHING DEFINITE DATES FOR REPLY.

(2) IF THE CONFLICT CANNOT BE RESOLVED AT THE CENTER COMMANDER LEVEL THE MATTER WILL BE REFERRED TO THIS HQ, ATTN: DLA-PP.

PAGE 3 RUEBDSA9448 UNCLAS

3. SOURCES KNOWN TO HAVE PREVIOUSLY SUPPLIED PARTS WILL BE SOLICITED. ADDITIONAL PREVIOUS SOURCES BROUGHT TO OUR ATTENTION WILL BE DEALT WITH IN A PROFESSIONAL AND BUSINESSLIKE MANNER AND THEIR OFFERS OR QUOTATIONS SOLICITED. ALL WILL BE LOADED INTO APPROPRIATE MANUAL AND AUTOMATED SOURCE LISTS FOR FUTURE SOLICITATIONS.

4. IN NO CASE WILL PMC/PMSC CODES BE CHANGED WITHOUT SPECIFIC CONCURRENCE FROM THE TRANSFERRING ACTIVITY. IN ADDITION, A REPORT IS TO BE SUBMITTED BY EACH DSC OUTLINING ALL CHANGES MADE TO PMC/PMSC CODES WITHOUT COORDINATION AND/OR CONCURRENCE OF THE TRANSFERRING

ACTIVITY. REPORT TO BE SUBMITTED TO THIS HQ.ATTN: DLA-SE BY 15 APRIL

83.

5. REPORT TO THIS HQ. ATTN: DLA-P:

A. WHEN ABOVE DIRECTION IMPLEMENTED, BUT NOT LATER THAN 15 APRIL

83.

B. ANY EXCEPTIONS REQUIRED BY OPERATIONAL MISSION DICTATE.

C. ANY ANTICIPATED PROBLEMS RELATING TO THIS GENERAL AREA.

VADM GRINSTEAD SENDS.

BT

#9448

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DEFENSE LOGISTICS AGENCY
HEADQUARTERS
CAMERON STATION
ALEXANDRIA, VIRGINIA 22314

IN REPLY REFER TO DLA-PPR

10 APR 1983

Honorable John Tower
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in further response to your inquiry of 4 April 1983 on behalf of Mr. Jon C. Williams of Aero Components Company, Arlington, Texas. Mr. Williams expressed concern over the delay in answering correspondence from Mr. Theodore C. Huke, Attorney and Counselor, Hurst, Texas.

As promised in our interim response to you on 20 April 1983, enclosed is a copy of the reply to Mr. Huke's letter which was sent directly to him. A copy was also furnished directly to Mr. Williams. Mr. Huke's initial letter of 20 January 1983 was originally given to the Defense Industrial Supply Center (DISC), Philadelphia, Pennsylvania, a field activity of this Agency. Because the letter addressed policy issues of concern to this Headquarters, we elected to reply on behalf of DISC.

Our response, as you will note, does not include answers to questions raised by Mr. Huke which concern the solicitation provision referred to as clause "L06." The clause was used by DISC in an effort to correct problems resulting from the supply of nonconforming spare parts by contractors under false certifications. DISC, in an effort to "tighten up" its documentation requirements, also created some difficulties for our reputable suppliers. While DISC's actions were within regulatory requirements, they were not interpreted as such by industry. Thus, the "L06" was rescinded and a new clause entitled "Products Offered" was issued as a replacement. The policy issued with the clause directed all field activities engaged in spare parts procurement to give positive consideration, without extensive documentation requirements, to all previous suppliers with a satisfactory performance history. We believe the new clause and policy represent a reasonable balance between our continuing responsibilities to assure procurement of quality spare parts and the concerns expressed by industry. Both Mr. Huke and Mr. Williams have been given copies of the clause and procedures and are aware of all the changes. Every regulatory and legal effort is being made to expand our competitive procurement record which currently is 74 percent competitive and 82 percent with Fuel included.

We trust this information will be helpful in responding to your constituent.

Sincerely,

E. A. Grinstead
E. A. GRINSTEAD
Vice Admiral, SC, USN
Director

2 Encl
1. DLA Ltr dtd
   4 May 83
2. Constituent's Ltr

ATTACHMENT "C"

DEFENSE LOGISTICS AGENCY
HEADQUARTERS
CAMERON STATION
ALEXANDRIA, VIRGINIA 22314

IN REPLY REFER TO DLA-PPR
CONTRLTR 83- 5

9 - MAR 1983

SUBJECT: Solicitation Provision "Products Offered (DLA 1983 MAR)"

TO: Heads of DLA Primary Level Field Activities
(LESS: DDMP, DTIC, DSAC, DCASR Philadelphia)

1. The "Products Offered" provision, with instructions for use, set forth at DLPR 3-501(b), Section L(iv), has been rewritten and is enclosed herewith for immediate use. The provision has been moved to DLPR 7-2050 and revised to specifically define types of offers, set forth data requirements for each category of offer and advise offerors of evaluation criteria for offers of alternate products. These changes are in consonance with, and incorporate language from, various Comptroller General decisions resulting from protests against use of similar provisions.

2. The "Products Offered" provision is forwarded for use as written. Modifications thereto are not authorized except as provided in the instructions for use or as may be authorized under the provisions of DLPR 1-109.

3. Use of the provision entitled "Parts and Components - Specific Sources" is no longer authorized and shall be discontinued. Accordingly, the following are hereby rescinded:

a. Unnumbered letter, DLA-PPR, dated 3 March 1982, with amending letter, dated 30 July 1982, subject: "Use of the 'Products Offered' and 'Surplus Material - Certification and Information' Clauses in Solicitations for Consumable Item Transfer (CIT) Items."

b. DLPR Deviation 82-2 dated 6 August 1982, subject: "Products Offered."

4. This CONTRLTR is rescinded upon incorporated of the enclosure into DLPR but, in any event, no later than one year from the above issue date.

FOR THE DIRECTOR:

W I Austin

W. I. AUSTIN
Captain, SC, USN
Acting Executive Director
Contracting

Encl

cc:

DCSC-P	DESC-P
DFSC-P	DGSC-P
DISC-P	DPSC-P
DASC-IS	DLA-Z (DARPO-A)

REVISION TO DLPR 4105.1

Section III, Part 5, Solicitation of Proposals and Quotations

3-501 Preparation of Request for Proposals or Request for Quotations

(b) No change

SECTION L, Instructions, Conditions and Notices to Offerors/Quoters

(vi) The Products Offered provision at DLPR 7-2050.7 shall be used in negotiated acquisition of replacement parts, components and assemblies which are identified only by the manufacturer's name, part number, and a brief item description, except that the provision shall not be included in such solicitations whenever the "Critical Application Parts - Specific Sources" provision is used.

The provision shall be used under negotiated large purchases and may be used under manual or automated small purchase procedures provided that the full text of the provision shall be made available to offerors, and the solicitation identifies the categories of offers set forth in paragraph a of the provision.

Procedures must be established to provide for reasonable evaluation of alternate item offers when such offers are in line for award. If time before proposed award does not permit complete evaluation of alternate item offers, and delay of award would adversely affect the Government, then such offers may be considered technically unacceptable and award made to the otherwise responsive, responsible offeror. However, evaluation of the alternate item offer must continue beyond award. When evaluation is not completed until after award has been made, the alternate item offeror will be advised of the evaluation results and, if the alternate item is determined to be acceptable, advised that it will be eligible for award under future solicitations for the same item. When establishing such evaluation procedures for small purchase actions, the administrative costs of evaluation versus benefits to be derived should be considered as an evaluation factor. Prudent business judgment should be used in conducting such evaluations whenever there is otherwise adequate competition from a representative number of responsible sources at reasonable prices for the item desired.

Section VII, Part 20, Contract Clauses and Solicitation Provisions

7-2050.7 Products Offered. The Products Offered provision set forth below shall be inserted in negotiated acquisitions in accordance with 3-501(b), Section L (vi). The provision, when used, shall be verbatim except that the acronym CLIN may be substituted for the word "item." When the provision is used, the following shall be inserted in the solicitation after each item description:

"Offer based on:

Manufacturer's Name_____________________Part No.______________."

PRODUCTS OFFERED (DLA 1983 MAR)

a. The product described by the manufacturer's name and part number in the procurement identification description (PID) of this solicitation is that product which the Government has determined to be acceptable. Neither detailed specifications nor other data may be available for use in evaluating the technical acceptability of other products. Accordingly, all offerors must indicate below whether they are offering the exact product or alternate product and furnish the data required for whichever is applicable. Exact product means the identical product cited in the PID manufactured by the manufacturer cited in the PID or manufactured by a firm who manufactures the product for the manufacturer cited in the PID. Any product not meeting this criteria is considered an alternate product even though it may be manufactured in accordance with the drawings and/or specifications of the manufacturer cited in the PID. In either case any product offered must be either identical to or physically, mechanically, electrically and functionally interchangeable with the product cited in the PID.

☐ Exact Product - Applicable to Item(s) ____________________

☐ Alternate Product - Applicable to Item(s) ____________________

b. Exact Product. If the exact product is offered, offerors other than the manufacturer cited in the PID must furnish with their offer evidence that the product being offered is the product specified in the PID. Such evidence may be an invoice or other correspondence from the manufacturer cited in the PID or other evidence sufficient to establish the identity of the product and its manufacturing source. In addition, if the product is manufactured for the manufacturer cited in the PID, evidence of approval and acceptance by the manufacturer cited in the PID must also be furnished. If the product is former Government surplus, all the data and information required by the "Surplus Materials - Certification and Information" provision, contained elsewhere in this solicitation, must be provided.

c. Alternate Product. If an alternate product is offered, offerors must furnish with their offer legible copies of all drawings, specifications or other data necessary to clearly describe the characteristics and features of the product being offered. Data submitted must cover design, materials, performance, function, interchangeability, inspection and/or testing criteria and other characteristics of the offered product. As stated in paragraph "a" of this provision, the Government may not have detailed data available for use in the evaluation of the acceptability of alternate products offered. Therefore, if available, the offeror should also furnish drawings and other data covering the design, materials, etc., of the exact product cited in the PID sufficient to enable the Government to determine that the offeror's product is equal to the product cited in the PID.

d. If the product offered has previously been furnished to the Government or otherwise previously evaluated and approved, indicate in the space provided below the contract and/or solicitation number under which the product was furnished or approved. If the product was furnished or evaluated and approved by a contracting activity different from the one issuing this solicitation, then so indicate in the space provided. However, in this case, offerors are advised that this contracting activity may not have access to records of another activity or other information sufficient to reasonably determine the offered product's acceptability. Therefore, the information requested by paragraph "b" or "c" above, whichever is applicable for the offered product, should be furnished with the offer.

Item Nr(s)____________________________have been previously furnished or

evaluated and approved under contract/solicitation number ________________

Issuing Activity____

e. Whether the exact or an alternate product is offered, the offeror must insert in the spaces provided beneath the applicable item's PID (under the heading "Offer based on:") the manufacturer's name and part number being offered.

f. Failure to furnish complete data and information required to sufficiently establish acceptability of the product offered may preclude consideration of the offer. In addition, offerors are hereby advised that the Government will make every reasonable effort to determine, prior to award, the acceptability of any products offered which are within the range of consideration. However, if such determination cannot be accomplished by the expected contract award date, the products may be considered technically unacceptable for this award. The offeror will be advised accordingly. If an offered product is subsequently determined to be acceptable or unacceptable, the offeror will be so advised and, if acceptable, the product will be considered for future awards. However, such consideration will be discontinued whenever any changes are made to the product to accommodate changed requirements of the Government.

g. If offerors desire to restrict the Government's use of data submitted for evaluation, the data must bear the appropriate legends as prescribed by DAR 3-507.1(a). In the event an award is made to an offeror submitting data without the appropriate legend, the Government will have unlimited rights to its use as defined by paragraph (a)(7) of DAR 7-104.9(a).

ATTACHMENT "D"

DEFENSE LOGISTICS AGENCY
DEFENSE INDUSTRIAL SUPPLY CENTER
700 ROBBINS AVENUE
PHILADELPHIA, PA. 19111

IN REPLY
REFER TO DISC-P

12 MAY 1983

Mr. Jon C. Williams
President
Aero Components Company
P.O. Box 120157
423 Dodson Lake Drive
Arlington, Texas 76012

Dear Mr. Williams:

I would like to thank you for your invitation to visit Dallas and hope that our meeting of 20 April 1983 will prove mutually beneficial in resolving our concerns. I appreciated the opportunity to hear and discuss those concerns expressed by the members of the contracting community present at that meeting (Enclosure 1), as well as the opportunity to express my concerns as DISC Commander. I would like to address several of the issues raised during the meeting. Other issues which were mentioned require higher level consideration and review. We hope to be able to respond to those in the near future.

Concern was expressed about critical application items being solicited through SAMMS Automated Small Purchase System (SASPS). Some critical items have been correctly placed in SASPS. Those items have been screened and carefully selected sources listed for solicitation. Occasionally, other critical items appear in SASPS. Those items, which have not been screened, are removed as soon as they are discovered. Let me again re-emphasize that there are no Consumable Item Transfer (CIT) items in SASPS.

Several people present at the meeting expressed concern about not being able to determine when bids are received in response to SASPS. Several people also stated that upon occasion they would call in and check on a solicitation and were told that DISC had no record of receiving their bids. It is of course difficult to address these concerns without having the specifics. Perhaps a general description of the current SASPS quote receiving process would be beneficial.

Quotes are received from one of two avenues. Quotes placed in the Bid Box, in the foyer of Building 36 at DISC, are collected daily. Mail quotes are received in the DISC central mail room. Quotes from either source are sorted and stamped in by clerks within one workday after they are received at DISC. Quotes stamped one day after closing are not considered late. During this sorting activity the timeliness of the bid is determined. Quotes are then checked for completeness, data from them are entered into the computer, and the timely quotes themselves are then filed with the purchase folder. All quotes in the purchase file should have the receipt date stamped on them. Bids which are received late are not considered for award unless no other quotes have been received. Late quotes would not normally be returned; however, drawings would be if requested by the sender.

DISC-P
Mr. Jon C. Williams

12 MAY 1983

I am not satisfied with our current procedure. The fact that you or other suppliers are not informed when your bids are received late is unsatisfactory. It is to our mutual benefit that your quotes reach us in time to be legally considered. You need to compete and we need competition. Therefore, I have directed my procurement staff to develop a simple system to inform each vendor when his bid is received late. My target date for implementing this system is mid July. You, as well as other DISC suppliers, will be receiving additional information on this system soon.

In regards to Vendor supplied Response Cards for award information, the standard procedure is for them to be mailed upon award of the contract, purchase order, etc. As I'm sure you know, this is not a requirement, but rather a technique to provide timely feedback to our vendors. Several months ago we experienced delays in returning these cards because of an increase in technical referrals, which placed many of our purchases in suspense, and an increase in clerical workload in general. Like notification of late bids, I consider Response Cards as mutually beneficial. I encourage continued use of these cards and will do all I can to ensure that DISC holds up its end of the bargain in supporting this valuable feedback function.

Another concern expressed during our meeting was that DISC's Procurement policies discourage competition. Perhaps in addressing this concern, it would be beneficial to review our basic requirements with regard to acquiring material.

As you know, one of the basic premises of any type of contracting is that the customer (in this case DISC) should have every expectation of receiving that which it is seeking to purchase. Since the Government acquires material which will meet its minimum needs, coincident with accomplishing its mission, it must receive that which it contracts for. The Government must describe that material as fully and completely as possible based upon whatever data is available. In instances where the data available to DISC is incomplete or inadequate, competition may be unfavorably impacted during the procurement process. We certainly appreciate any instance where members of the contracting community assist us in improving the technical description of our material. We encourage and solicit your assistance whenever possible. I assure you that we ask the military services for whatever data is available and will continue to do so.

I consider the actions described above as a start in improving our working relationship to our mutual benefit. I am interested in any ideas, regardless of their source, which will assist me in my responsibilities to increase DISC's efficiency and effectiveness without reducing quality. I fully realize that you and our other suppliers have similar responsibilities to your firms. I am convinced that if we work together we can all do better.

DISC-P
Mr. Jon C. Williams
12 MAY 1983

I would again like to express my appreciation for your efforts in establishing the meeting. I hope it will serve as a platform from which we can solve problems and achieve an exchange of information and views on various topics. I again invite all concerned to provide specific inquiries to DISC at the following address:

Commander
Defense Industrial Supply Center
ATTN: Lt Col Stamp, DISC-PG
700 Robbins Avenue
Philadelphia, PA 19111

To assist in dissemination, a copy of this letter is being sent to all who attended the meeting.

Sincerely,

HENRY G. SKEEN
Brigadier General, USA
Commanding

1 Encl

ATTACHMENT "E"

THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

27 MAY 1983

Mr. Jon C. Williams
President
Aero Components Company
P. O. Box 120157
Arlington, Texas 76012

Dear Mr. Williams:

This is in response to your recent Mailgram received by the Deputy Secretary of Defense on 13 April 1983 which recommended immediate return of the recently transferred weapons support items back to the Military Services. Any action to return the items to the Services is not warranted at this time.

The unnecessarily restrictive procurement practices which raised your concern have been acknowledged by the Defense Logistics Agency (DLA) and other Department of Defense officials in past meetings and correspondence with you and other members of the Association of Southwest Government Contractors. Corrective actions have been taken which resulted in revised solicitation provisions and direction to the DLA field contracting activities which will result in broadened competitive procurement opportunities. I am confident that we are moving in the right direction on those problems. However, I am having the Department of Defense Inspector General look at the critical issues more closely.

As you know, maintaining the combat readiness of our military forces is a primary focus of this Administration and is considered in every decision on weapons systems support. DLA has continually maintained a higher supply availability for repair parts and higher rate of competitive awards than the individual Services. Currently, DLA has a supply availability rate of over 93 percent for its range of weapons systems related items which, incidentally, totals more than 300,000 items specifically applicable to primary weapons systems of the Military Services. This latter figure excludes the 200,000 items recently transferred to DLA for management. There is no reason to believe this very good support will not continue. Further, 74 percent of DLA contract awards are competitive and 82 percent with fuel included.

I appreciate your interest in this matter. I can assure you that our decisions on management of weapons support and procurement of spare parts will be based on the best available data with special emphasis on the objective of combat readiness and efficiency.

Sincerely,

ATTACHMENT "F"

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE LOGISTICS COMMAND
WRIGHT-PATTERSON AIR FORCE BASE, OHIO 45433

26 JUL 1983

Mr. Jon C. Williams
Aero Components Company
Post Office Box 120157
Arlington, Texas 76012

Dear Mr. Williams

We appreciated very much the time you took to express your concerns on our Command bid posting procedures, and we want to provide you with a copy of the revised policy which will be implemented, on a trial basis through 1 February 1984, at our Air Logistics Centers. We have developed this new policy in an attempt to be responsive to the needs of the small business community--one of our most important resources.

For purposes of this trial period, we set the posting threshold for competitive requirements at $2,500. Evidence developed from a statistical survey of purchase requests under $2,500 supports the conclusion that posting competitive requirements under $2,500 is not cost-effective and generates little additional competition. We will, however, post all noncompetitive requirements to complement our advocacy of competition within the Command.

We recognize our obligation to the American taxpayer to be cost-effective in our administrative procedures. We cannot continue to issue several hundred sets of solicitation documents for a single small dollar buy, incurring administrative costs close to the value of the item being purchased. On the other hand, we cannot afford to miss opportunities to fully compete requirements where we are aware of only one or a small number of competitors. With this in mind, we would very much welcome your comments and thoughts resultant from this six-month trial period for our use in future policy refinements.

Sincerely

M. Poe

EUGENE M. POE, JR.
Brigadier General, USAF
DCS/Contracting & Manufacturing

1 Atch
AFLC Solicitation
Management Policy

AFLC SOLICITATION MANAGEMENT POLICY
TEST PERIOD THROUGH 1 February 1984

1. AFLC contracting offices shall post all unclassified selected source or sole source requirements, regardless of dollar value and the timeframe allotted for submission of offers. For aircraft spare parts procurements "selected source" shall include all requirements with a Procurement Method Code other than "G."

2. Generally, competitive purchases under $2,500 shall not be posted, but the contracting officer may make a determination on individual requirements that additional competition is needed, and post that requirement.

3. All AFLC contracting offices shall post all competitive, unclassified purchases $2,500 and above that comply with the time requirements in DAR 1-1002.4.

4. AFLC contracting offices shall provide only one copy of each solicitation package to any one individual, regardless of whether that individual is a representative of one or several business firms. All requests for solicitations must be in writing and must arrive in each contracting office directly from the requester.

5. When a copy of a solicitation package is furnished to an individual who represents more than one business firm, that representative will be identified on the distribution list and will be furnished one copy of all amendments to the solicitation, preproposal conference minutes, and other information sent out to prospective offerors.

6. When a requester has asked that the solicitation be mailed, AFLC contracting offices shall honor that request only when it is received in the contracting office not later than one day prior to the date set in the solicitation for receipt of offers unless solicitation packages are readily available and do not have to be reproduced.

7. When a solicitation package is to be delivered to a requester in person, no request will be honored after the date set in the solicitation for receipt of offers unless solicitation packages are readily available and do not have to be reproduced.

8. Each AFLC contracting office shall date stamp each request for solicitation immediately upon receipt.

9. AFLC contracting offices shall not allow the "posted" solicitations/RFQs or other "posted" documents containing purchasing information to be reproduced. The displayed copy shall be retained as a "control" copy to minimize possibilities of complaints of missing pages, of pages being out of order, of long waits to reproduce copies, etc. It is essential to record who has been given a bid set by the contracting office. For this purpose, a written request is needed. Contracting offices shall provide each individual requester one copy that does not have to be returned. A set of aperture cards for each requirement shall be available for viewing by interested parties before they formally ask for a bid set.

10. When feasible, AFLC contracting offices are encouraged to provide reproduction equipment for public use in the same area, or adjacent to where solicitations are displayed. Preferably, this is to be done on a no-cost contract for contractor-owned and contractor-maintained, coin-operated equipment.

Appendix B.—Additional Material Submitted for the Record by Paul J. Seidman, Special Counsel for Procurement Policy Issues, National Tooling & Machining Association

Exhibit 1

The National
Small Business
Association Building
1604 K Street, N.W.
Washington, D.C. 20006
Telephone
(202) 296-7400

Small
Business
Legislative
Council*

POSITION PAPER

GOVERNMENT CONTRACTING

In recent years, the small business participation in government expenditures has been shrinking dramatically. Non-competitive sole-source procurement practices have generally eliminated the ability of most small businesses to compete for products ranging from consumer goods to sophisticated missile and aircraft parts. Small businesses are suffering most from the current weak economy. Studies have shown that small business competition in the bidding process can save billions of dollars. In one study in the huge $10 billion spare parts market, the government saved 38 percent on a total of 181 parts when it switched from sole-source arrangements to competitive bidding.

RESOLVED

The Small Business Legislative Council supports measures which would enable small businesses of every type to compete for government contracts, including small business procurement reform, revision to the Spare Parts Breakout Regulation, and changes in proposals for the Uniform Procurement System which would help reduce the staggering federal deficit and would increase competition and small business participation in the federal procurement process.

Small
Business
Legislative
Council*

The National
Small Business
Association Building
1604 K Street, N.W.
Washington, D.C. 20006

Telephone
(202) 293-8830

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Allied Businessmen's Association, Inc.
American Association of MESBICs
American Association of Nurserymen
American Textile Machinery Association
Architectural Precast Association
Association of Independent Corrugated Converters
Association of Physical Fitness Centers
Automotive Service Councils, Inc.
Automotive Warehouse Distributors Association
Building Service Contractors Association International
Business Advertising Council
Christian Booksellers Association
Direct Selling Association
Door and Operator Dealer Association
Eastern Manufacturers and Importers Exhibit
Electronic Representatives Association
Florists' Transworld Delivery Association
Furniture Rental Association of America
Greater Wash. Ibero-American CoC
Helicopter Association International
Independent Bakers Association
Independent Bankers Association of America
Independent Media Producers Association
Independent Sewing Machine Dealers Association
Institute of Certified Business Counselors
International Association of Trade Exchanges
International Franchise Association
International Sanitary Supply Association

8/19/83

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*Of the National Small Business Association

Latin American Manufacturers Association
Machinery Dealers National Association
Manufacturers Agents National Association
Marking Device Association
Menswear Retailers of America
Narrow Fabrics Institute
National Association of Architectural Metal Manufacturers
National Association of Brick Distributors
National Association of Catalog Showroom Merchandisers
National Association of Chemical Distributors
National Association of Cold Storage Insulation Contractors
National Association of Home Builders
National Association of Minority Contractors
National Association of Plastic Fabricators
National Association of Plumbing-Heating-Cooling Contractors
National Association of Realtors®
National Association of Retail Druggists
National Association of Solvent Recyclers
National Association of the Remodeling Industry
National Association of Trade & Technical Schools
National Automobile Dealers Association
National Beer Wholesalers of America
National Candy Wholesalers Association
National Council for Industrial Innovation
National Electrical Contractors Association
National Family Business Council
National Fastener Distributors Association
National Independent Dairy-Foods Association
National Office Products Association
National Oil Jobbers Council
National Parking Association
National Patent Council
National Precast Concrete Association
National Shoe Retailers Association
National Small Business Association
National Society of Public Accountants
National Spa & Pool Institute
National Tire Dealers & Retreaders Association
National Tooling and Machining Association
National Tour Brokers Association
National Wine Distributors Association
Opticians Association of America
Power and Communications Contractors Association
Retail Bakers of America
Southwest Insulation Contractors Association
Specialty Advertising Association International
United Bus Owners of America
United Federation of Small Business
Urethane Foam Contractors Association
Web Sling Association

I. Background.

The present long lead times and geometric cost escalation experienced by DOD are a result of the agency's penchant for placing contract after contract with the same firms on a sole source basis. This is done despite the fact that small businesses are ready, willing and able to perform these contracts at lower prices and with shorter lead times.

For example, as a result of a legally questionable restrictive DOD procurement practice just codified as Defense Acquisition Regulation Supplement No. 6, small businesses are excluded from competing for spare parts contracts well within their capabilities. Defense Acquisition Regulation Supplement No. 6 was issued the very same week that Secretary Weinberger issued his 10 point program on improving spare parts procurement. This new DAR Supplement and its predecessor appear to be illegal because (1) they deprive small businesses of their statutory right to have the SBA make the final determination as to their capability to perform under its Certificate of Competency program, (2) reverse the legal requirement that noncompetitive procurements be justified, (3) allow DOD officials to utilize noncompetitive procurement practices where they believe them to be less costly, despite the legal requirement that such a determination is to be made only by the "crucible of competition", (4) nullify the Public Law 95-507 mandate reserving under $10,000 contracts for small business concerns where there are two or more small business sources; and (5) DOD has failed to comply with the procedures of the Small Business Regulation Flexibility Act in conducting this rulemaking effort. These points are addressed in NTMA's August 15, 1983, protest to GAO of DOD's noncompetitive method of purchasing spare parts.

The spare parts regulation results in such contracts generally being awarded to the large, original systems manufacturer on a sole source basis.

Other contracts are similarly awarded because the Government did not purchase manufacturing data needed for competitive procurement, never received it even though it paid for it, or has lost or destroyed it. A recent SBA study prepared for the House Small Business Committee indicates that DOD, on the average, saves 40% when it breaks out parts to competitive procurement. 1/ GAO subsequently reviewed SBA's findings and found that the SBA may have even understated the potential for savings.2/ Other studies have also found greater savings. For example, on January 19, 1982, the Naval Audit Service issued a study entitled "Multi-Location Audit of Purchasing Breakout Practices" [Audit Report T20151] which concluded that the Navy could save one-half on spare parts through competition. Given the fact that DOD purchases approximately $13 billion in spare parts annually,3/ the potential for savings is enormous.

II. H.R. 2133.

H.R. 2133 attempts to remedy these problems by among other things:

-amending section 8(b)(7) of the Small Business Act relating to Certificates of Competency to (a) eliminate bidder and product prequalification as a means for procuring agencies to deprive small businesses of their statutory right to have SBA make the final determination of their capability to perform and (b) eliminating any SBA discretion to deprive small businesses of this important right;

-requiring agencies, whenever feasible, to breakdown requirements into smaller units to promote small business competition;

-requiring justifications by the head of a buying activity for noncompetitive purchases of spare parts;

-raising the dollar value of small purchases reserved for small business concerns from $10,000 to $25,000;

1/ The SBA study is published as part of the record in Small Business and the Federal Procurement Sustem: Hearings Before the Subcommittee on General Oversight of the House Committee on Small Business, 97th Congress, 1st Session 415, 422-436 (1981).

2/ SBA's Breakout Efforts Increase Competitive Procurements at Air Logistics Centers, (GAO/PLRD-82-104), August 2, 1982.

3/ Management of Technical Data and Its Use in Competitive Procurement, DOD Inspector General Report No. 83-098, April 11, 1983.

-requiring automatic small business set-asides for conversions from commercial activities to contracts under OMB Circular A-76;

-requiring automatic small business set-asides if there is a reasonable expectation that offers will be received from at least two small business concerns;

-eliminating the Maybank amendment requirement that no price differential be paid on labor surplus area set-asides.

These points will be addressed below along with additional suggestions for reforming the procurement system.

A. Certificates of Competency.

H.R. 2133 would amend the Small Business Act to eliminate bidder and product prequalification as a way for agencies to deprive small businesses of their statutory right to have SBA make the final determination of their capability to perform. It also would remove any SBA discretion to deprive small businesses of this important right. We strongly endorse these provisions, the need for which is well documented.

1. Bidder Prequalification as a Means to Screen Out Small Firms. The Certificate of Competency Program in General.

In order for a firm to be awarded a Government contract, a determination must be made that it is capable of performing. As a general rule the contracting officer has the final say on such matters. However, under the Small Business Act, a small business has the right to have SBA make the final determination of its capability to perform if it would be awarded a particular contract except for a contracting officer's negative capability determination. This review is conducted under SBA's Certificate of Competency Program.

The enactment of certificate of competency legislation resulted from the systematic exclusion of small business from defense contracting during World War II and the negative impact on the defense effort. From its inception it was intended to save the Government money and strengthen the defense industrial base. It was not intended to be a giveaway program.

The problem was that World War II contracting officials would repeatedly refuse to award contracts to small business concerns because they believed them incapable of performing. The same small businesses would subsequently perform the work as subcontractors to the large firms awarded the contracts in question. This is similar to DOD spare parts procurement today in that most parts are manufactured by small business subcontractors which DOD does not want to deal with directly. Because procuring officials underestimating the the capability of small business concerns had such a negative impact on the wartime defense effort, Congress enacted legislation giving authority to the Smaller War Plants Corporation to make binding determinations of the capability of small business contractors to perform. This "Certificate of Competency" authority was given to the Small Defense Plants Administration during the Korean War and subsequently transferred to the Small Business Administration in 1953.

2. The Use of Bidder and Product Prequalification to Deprive Small Firms of their Statutory Right to Apply for a COC.

16

The current fiasco in spare parts procurement results from an artifice used by DOD that deprives small business concerns of their statutory right to have SBA make the final determination as to their capability to perform. This is done by a system of bidder and product prequalification set forth in the so-called Breakout Regulation, now codified as Defense Acquistion Supplement No. 6. The concept is fairly simple. If a small business is precluded from bidding by a bidder or product prequalification system, the need to refer the question of their capability to SBA for certificate of competency purposes never arises. It is DOD's position that a small business is only entitled to a certificate of competency review if it would have been awarded a particular contract if it were not for the contracting officer's negative capability determination. If a small business is precluded from bidding, this stage of the procurement process is never reached.

The way this is done is by the assignment of acquisition method codes (AMCs) that restrict the award of contracts for spare parts to sources that have prequalified. One of the assumptions underlying the AMCs is that procurements should be restricted to prequalified sources on the grounds that it is necessary to assure the reliability of a part.

3. Bidder and Product Prequalification is No Substitute for Quality Assurance.

The services cite the need for quality assurance in critical parts, a point none of us argue with. They point out that their product and bidder prequalification systems are a means to assure that they have reliable bidders who will turn out quality products.

In DOD's opinion, there apparently are few qualified companies, given the paltry 10 percent competitive procurement rates. This is not surprising since the use of bidder and product prequalification often results from the recommendation of the original equipment "manufacturer." The procuring agency asks the OEM whether other firms should be allowed to compete against them on an open basis or should first be required to prequalify because "unique manufacturing practices" are needed. Not suprisingly, the OEMs generally recommend against competition and DOD follows such recommendations. Not only do prequalification procedures often result from the recommendation of the OEM, but in some cases the OEMs have been tasked with determining whether a firm is "qualified" to compete against them. DOD claims that it has done away with contractor recommended codes in its new DAR Supplement on spare parts. However, it has left the procedure intact and merely changed the name from "contractor recommended codes" to "contractor technical information codes."

We disagree with prequalification procedures. Their effect has been to restrict competition and any quality control aspects have been incidental. DOD must know this too, since, as noted in a 1968 DOD study, the fact that a handmade prototype is acceptable provides no assurance that mass-produced versions of such article will be.

Quality in manufacturing is not merely some vague sense of goodness. It is simply conformance to requirements - requirements that are explicitly defined and measurable. Conforming to stringent requirements is nothing new to our member companies. There are specific requirements for instrument calibration, inspection, sampling, and quality control set forth in various military specifications. None of these specifications make any differentiation between large and small companies. Our member companies are generally capable of meeting those requirements - if only given the chance. In fact, a great many of our members already meet or exceed mil-spec quality demands when doing subcontract work for OEM prime contractors. Other than a visit to a first-time bidder to ensure that they have the right equipment, trained manpower, and adequate management control, no other subjective methods of quality control are needed. This is real quality control, having nothing to do with qualified bidders lists, qualified parts lists, or any other artificial barriers to competition. If this sort of quality control is being practiced, such prequalifications are redundant and unnecessary.

One of the best ways to increase competition and save perhaps $5-$6 billion annually without affecting total procurements would be to legislate this artificial barrier to competition out of existence. Provisions that do this are contained in H.R. 2133.

4. Eliminating SBA Discretion to Deprive Small Businesses of Their Right to Have SBA Make the Final Determination of Their Capability to Perform.

We strongly support the H.R. 2133 provisions which eliminate SBA discretion to deprive small businesses of their right to have SBA make the final determination of their capability to perform.

SBA should be highly commended for its breakout procurement center representative program. Despite limited resources the millions of dollars of savings have resulted from contracts broken out for competition by this program. However, not everything that SBA does is in the interest of small business. For example, in August of 1982, SBA issued a rule, without going through notice and comment proceedings, that would allow procuring agencies to decide whether they would refer non-capability determinations to the SBA for certificate of competency purposes.[4] In an apparent effort to sidestep the requirements of the Regulatory Flexibility Act, SBA claimed that the rule had no impact on small business. This is utterly preposterous. Perhaps the most important impact of the COC program is not the COC's actually awarded, but the fact that its existence deters contracting officers from issuing baseless non-capability determinations. The result of this rulemaking brainstorm by the supposed protector of small business has been to deprive small businesses of countless contract awards that would have otherwise been made.

Another reason for enacting such language is the SBA's response to the Comptroller General's decision in *Office of Federal Procurement Policy's Uniform Films Production System*, 60 Comp. Gen. 104, B-198360, 80-2 CPD ¶419. Such case was initiated by SBA's Advocacy Office and challenged a government-wide prequalification system that had deprived 400 small businesses of their right to have SBA make the final determination of their capability to perform federal audiovisual and videotape contracts. GAO held that in cases where small businesses did not prequalify, the matter was required to be referred to SBA for certificate of competency purposes. SBA refused the referrals on grounds that they could only review capability where a particular contract was at issue and not at the prequalification stage. Whether SBA is correct is academic. The key point is that 400 small businesses, deprived of the right to sell to the government in their chosen field, were left without a remedy.

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[4] 47 Fed. Reg. 34972 (1982).

B. Component Bidding.

H.R. 2133 would require that "Federal agencies shall, whenever feasible, reduce the number of anticipated requirements to be contained in each of its contract solicitations to promote the maximum practicable opportunity for small business concerns to submit offers in response to such solicitations." A similar recommendation was enacted by the 1980 White House Conference on Small Business.[5]

We endorse this provision. It may be of some use with maintenance contracts, formerly set-aside for small business, which DOD has consolidated into requirements too large for small business concerns. However, we note that something usually gets lost in translation between broad policy statements and implementation. Such a policy on component breakout is already contained in Defense Acquisiton Regulation section 1 - 326 but has had little impact.

B. Raising the Dollar Value for Small Purchases Reserved for Small Business Concerns from $10,000 to $25,000.

Public Law 95-507 reserves all contracts of less than $10,000 for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns. As surprising as it may seem, as a result of the interpretation of such statute, H.R. 2133 provisions raising

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5/ Recommendation 27 "Procurement agencies should break down large requirements (including those for research and development) into smaller parts wherever feasible to permit solicitiation from, and award to, small business."

the dollar value to $25,000 would likely decrease spare parts awards to small manufacturers. The reason is that interpreting regulations provide that a small business dealer can provide the product of a large manufacturer for such set-asides. The rationale for this interpretation is that if the Government goes to the local hardware store to purchase a bolt the owner should not be required to certify that the bolt was manufactured by small business. However, the problem with such provision is that procuring agencies are using this exception to purchase items for stock.

Given the restricted degree of competition required in small purchases, procuring officials could conduct a set-aside by soliciting two small business dealers who sell the product of a large manufacturer.6/ They could also break a $100,000 contract that previously went to small manufacturers into four $25,000 buys and solicit only small dealers selling the product of a large manufacturer. This is obviously not what Congress intended when it enacted P.L. 95-507.

We therefore recommend that if the threshold for contracts reserved for small business is raised to $25,000 that the product of a small manufacturer must be provided unless the purchase is for local use and not for stock.

The committee should also be interested to note that the spare parts regulation exempts parts with an annual buy value of under $10,000 from breakout to competitive procurement if it has been screened for known sources. This would appear to violate P.L. 95-507 provisions requiring contracting officers to affirmatively seek small business sources before awarding such contracts to a large business. NTMA has repeatedly offered to utilize its computer bank to help DOD meet its P.L. 95-507 obligation of attempting to identify potential small business sources for under $10,000 contracts. Regrettably, DOD has not taken us up on this offer.

6/ DAR §3-604.1 provides that for small purchases in excess of $500 "Generally, solicitation shall be limited to three suppliers." (Emphasis added.)

C. Justifications for Noncompetitive Spare Parts Procurements.

We believe that the provisions requiring justification by the head of a buying activity for noncompetitive spare parts procuremnts in H.R. 2133 are unnecessary. They merely restate the grounds for noncompetitive procurement in existing law. Contracting officials have demonstrated the ability to use modern copying equipment to provide boilerplate justifications for what they want to do. A preferable remedy to noncompetitive spare parts procurement is to address artificial barriers to competition such as bidder and product prequalification and lack of adequate technical data.

D. Other Provisions.

The other provisions in H.R. 2133 provide preferences for small businesses and small businesses located in labor surplus areas by providing, among other things, for automatic set-asides, and repealing the Maybank amendment which precludes the payment of a premium for labor surplus area set-asides.

We do not quarrel with the intent of such provisions. However, we are not asking for a handout. We only want a fair chance for small businesses to serve our country's needs by competing for contracts which, in most cases, they can perform more economically that the incumbent sole source contractors. Current DOD practices result in spare parts contracts being *de facto* large business set-asides. It has been repeatedly demonstrated that when such contracts are competed they are almost invariably awarded to more efficient small business concerns.

III. Other Possibilities for Reform.

As previously noted perhaps the greatest barriers to competitive spare parts procurements is the unavailability of manufacturing data needed for competitive procurement. In some cases the Government has not purchased the data. In many cases DOD has paid for the data but it is marked "proprietary" or has never been delivered or has been lost or destroyed by DOD personnel.

In S. 1730, recently introduced by Senator Alan Dixon and cosponsored by 24 Senators from both sides of the aisle, the Senate attempts to deal with the data problem by requiring DOD to purchase all manufacturing data for major weapons systems, requiring DOD to inventory all data within its possession, and providing small business access to government-owned technical data needed for competitive procurements. S. 1730 would also permit a contractor to perform a Federal contract unhindered by the threat of an injunction for utilizing another firm's trade secrets. Anyone whose trade secrets have been violated could obtain damages in the U.S. Claims Court as they now can for patents.

S. 1730 has received the endorsement of major small business groups such as the National Federation of Independent Business, Small Business United, the Small Business Legislative Council and the National Small Business Association as well as NTMA. We strongly recommend that H.R. 2133 be amended to include similar provisions. In addition, we would recommend that S. 2133 be amended to include language to discourage the practice of routinely marking data "proprietary" even though the Government has paid for it, a practice that for all practical purposes precludes competitive procurement. This could be done by requiring that agencies refer instances of spurious claims of business confidentiality to the Justice Department for prosecution under the False Claims Act, 18 U.S.C. §287 or the False Statements Act, 18 U.S.C. §1001.

This concludes my prepared statement. If you have any questions, I would be happy to address them at this time.

Appendix C.--Additional material submitted for the record by Rear Adm. Joseph S. Sansone, Jr., Deputy Chief of Navy Materiel (Contracts and Business Management), Department of the Navy, DOD

Subj: Procurement of a $436 Hammer from Gould Simulation Systems Division in Support of the T-34 Training Device, 2B37

As part of spare parts and ground support equipment required to maintain the 2B37 devices, the Navy purchased a hammer which was billed to the government at the price of $436. To properly explain the composition of the price, the following is provided.

Contract N00019-78-C-0295 was awarded to Beech Aircraft on 31 March 1978 by the Naval Air Systems Command (NAVAIR). The contract required the design, development, production, delivery and support of 14 training devices. The training device effort was subcontracted on a competitive basis by Beech Aircraft to Gould Simulation System Division. Delivery of the first device was required in March 1982.

In April 1979, it was decided that NAVAIR would obtain total contractor maintenance and material support for certain training devices, including device 2B37 rather than provisioning such support through the supply system. NAVAIR began discussions with Beech Aircraft and Gould to determine maintenance support requirements for the training device.

In April 1981 the Navy decided it was more cost effective to deal directly with Gould rather than through the prime, Beech Aircraft. The Naval Training Equipment Center (NTEC) was tasked by NAVAIR in August 1981 with developing a maintenance and support plan for the training devices. The plan was approved in December 81 and a contract was awarded by NTEC to Gould in May 1982 for the operation and maintenance support of the T-34 devices. At the time of contract award for the operation and maintenance support, eight devices were already installed at various locations and the remaining six devices were to be delivered between June and November 82.

Line items 0003 and 0004 of the operation and maintenance contract were established for the identification and ordering of spare parts and ground support equipment necessary for maintaining the 2B37 devices in operational condition. The established procedure for obtaining spares in contracts such as this one is outlined below:

1) The contractor which develops and builds the training device, will also provide data to be used by the supply system to order and stock required spares. This process termed "provisioning" takes between 1-3 years.

2) During the 1-3 year period required for the supply system to assume the support of a training device, temporary support is provided by the contractor supplying the device. This period is termed the "interim support period (ISP)."

3) The contractor identifies projected spare parts requirements to the government on interim support items lists (ISILs).

4) The ISIL contains part numbers, nomenclature, manufacturer's code, quantities, contractor estimated prices, and national stock numbers (NSNs) if applicable. The ISIL is reviewed by the government to determine need, availability of funds and availability of the item in

the federal supply system. The requirement that parts with NSNs be identified, facilitates the process of determining part availability from the supply system, since every stocked item has a separate NSN.

5) Once an ISIL is reviewed and annotated by the government to identify those items which are to be purchased from the contractor, an order is issued by the procurement contracting officer (PCO), on a not-to-exceed basis, authorizing the contractor to begin acquisition of the items. In addition, the order requires the contractor to prepare and submit a fully priced proposal covering the items ordered, to the cognizant administrative contracting officer (ACO), who is delegated the responsibility, under Defense Acquisition Regulation (DAR) 1-406, to negotiate a firm price for the ordered items.

6) The ACO obtains the necessary audits and approvals and subsequent to negotiations, issues a contract modification which definitizes the order on a fixed price basis.

The order, which included the $436 hammer, differed from standard practice in several ways.

First, the contract with Gould did not require provisioning technical data (PTD); hence the process of stocking required spare parts in the supply system was not initiated. This decision not to obtain PTD was based on the April 1979 decision to obtain total contractor maintenance and material support for certain training devices.

Second, the contract did not require Gould to provide NSNs for items listed on the material requirements list. This was based on NTEC's understanding that the supply system was not going to assume support, and therefore, few parts would likely be available in the supply system. Furthermore, the urgency of the requirement did not allow for the time and effort required for screening the list and determining what parts, if any, were available from other sources. Finally, NTEC had a resource problem which reduced the level of screening conducted on any material requirements lists. As a result of the decision not to require NSNs, and not to screen for availability of parts through the supply system, many common use items were included on the list of items ordered from Gould in June 1982.

The June 1982 order for spare parts was placed against contract line items 0003 and 0004 on a priority basis, as the installed training devices were in the field with insufficient spares and support equipment to ensure meeting the training availability date required to support T-34 pilot training program requirements.

The order, priced on a not-to-exceed basis, was provided to the ACO in Garden City. A proposal was submitted by Gould in October 1982. This proposal was evaluated by the Defense Contract Audit Agency (DCAA) and a Defense Logistics Agency (DLA) technical representative and negotiations were concluded in November 1982. A contract modification definitizing the order on a fixed price basis was issued in December 1982. The order covered approximately 420 separate line items. These items were priced on a total lot basis which consisted of determining the material cost of each item, and any direct hands on labor charges for each item, and then adding to each item the estimated non-hands-on support labor, overhead and profit. In Gould's proposal, each item received an equal share of the non-hands-on support labor requirements, regardless of the value of the line item, which when fully loaded with overhead and profit amounted to approximately an additional $ 385.00 per line item. The sub-total for each line item was then totaled forming the total lot price proposed to the government.

Material costs proposed by the contractor, direct labor charges and overhead charges are generally easily subject to audit. However, in the case of Gould the non-hands-on support costs are not easy to audit as Gould does not normally handle a large volume of spare part orders as part of their business and does not have a standardized estimating system based on historical data for determining these costs. Consequently, these proposed costs are essentially estimates based on the "best judgement" of the company's estimators. Negotiations on areas such as non-hands-on support labor are difficult as the government can only base its position on its own "best judgement".

Gould has government approved purchasing and estimating systems. These approvals were based on the results of reviews conducted by DCASMA Garden City, assisted by DCAA which ensured that the contractor maximized competition and complied with cost accounting standards and generally accepted business practices. Consistent with Gould's estimating and proposing systems, spare parts price negotiations with Gould focus on the total or bottom-line amounts proposed for the entire lot of spares. Once a bottom-line has been negotiated, the contractor then allocates these costs to the material list to provide a billing price for each line item. The billing price allows the contractor to recoup not only direct charges as items are incrementally delivered and accepted by the government, but also to recoup the indirect costs associated with the management and processing of required spare parts, plus a factor for profit.

In response to the question why negotiations focus on the bottom-line amount rather than on individual line item costs; for orders, where as many as 400 or more line items are being ordered at one time, line item ~~are~~ negotiations are neither practical nor achievable in a responsive manner without a significant increase in resources.

Exhibit A shows in detail how a hammer with an original purchase cost of $7 can be billed to the government at a total cost of $436. The increase from $7 to $436 occurs when non-hands-on support costs are allocated to each line item on a direct and equal share basis. Exhibit B, also attached, shows the impact on line item cost when support costs are allocated based on an indirect basis proportional to the cost of the line item. Using the second approach, the cost of the hammer is $45. The difference between 436 and $45 reflects the difference in allocation methods employed and does not conclude that either price is reasonable. The difference is merely a shifting of indirect management and support costs from low dollar value line items to higher dollar value line items using an allocation system based on the cost of the item. The price paid for the total spares ordered remained $827,000 irrespective of which allocation method was used.

To preclude similar situations from occuring in the future the Navy has taken several actions.

NTEC has reallocated additional resources to the Logistics Department to accomplish a 100 percent screen on all spares requirements. This is to, among other things, ensure identification of those parts identified in the supply system and breakout of those parts identifiable to an OEM or other sources vice using the prime contractor. Additionally, all Interim Support Item Listings (ISILs) are being sent to Navy Inventory Control Points (ICPs) for verification. Common items such as the hammer will not be bought from the prime contractor but rather from the supply system or open market.

Administrative actions have been taken against the military and civilian personnel involved in decisions leading to NTEC's failure to purchase from the most economical sources. In addition, a separate and complete Procurement Management Review (PMR) was conducted by the Naval Material Command. The recommendations resulting from this review will be implemented and closely monitored to ensure that NTEC complies with existing policy and any new requirements approved as a result of the reviews. NTEC, as of 1 October, is under direct management of the Chief of Naval Material (CNM) vice the Chief of Naval Education and Training (CNET), its former "manager". This change of management should facilitate implementation of corrective actions and ensure the effectiveness and responsiveness of future NTEC acquisitions.

Of particular note is that the Secretary of the Navy requested and received repayment of excessive charges for items available from the supply system but purchased from Gould. Gould Simulation Systems Division repayment was $84,000.

Finally, the Navy has initiated an intensive program, consistent with the

Secretary of Defense's ten point program, which will result in comprehensive policy to improve the acquisition of spare parts and ensure fair and reasonable prices.

PRICING EXAMPLE - Gould, Simulation Systems Division

Purchased Item

Item - Switch - Qty. - 1 each

Direct Material		$ 7.00
Material Packaging		1.00
Material Handling Overhead @ 19.8%		2.00
* Spares/Repair Dept.	1. hr	
* Programs Support/Admin.	.4 hr	
* Programs Management	1. hr	
* Secretarial	.2 hr	
	2.6 hrs Eng. Support	37.00
Engr. O/H @ 110%		41.00
* Mechanical Sub-assembly	.4 hr	
* Quality Control	.9 hr	
* Operations Program Mgt.	1.5 hr	
* Program Planning	4. hr	
* Mfg. Project Engr.	1. hr	
* Q. A.	.1	
	7.8 hrs Mfg, Support	93.00
Mfg O/H @ 110%		102.00
		$283.00
G&A @ 31.8%		90.00
		$373.00
Fee		56.00
Facilities Capital Cost of Money		7.00
TOTAL PRICE		$436.00

* Total support hours for lot purchase are divided by number of items in each indicated category to determine "share" applicable to the line item.

EXHIBIT A

Pricing Summary for Navy Contractors
using $7.00 purchased part for
standard comparison

Gould - $7

- o small backlog of spares orders - annual volume only $1-3 million and may be covered by only 1 to 2 orders.

o pricing summary -

material	7.00
packaging	1.00
material @ 19.8%	2.00
Total Material	$10.00
.3hr mechanical sub-assembly + 1 hr Quality control/QA = 1.3 hrs of mfg @ $5.38	7.00
Manufacturing @ 110%	8.00
Total Labor	$15.00
Subtotal	$25.00
@ 31.8%	8.00
COM	.60
Profit	4.40
Unit Cost ($38)	$38.00
Total cost ($748,794) x Support Cost $147,217 =	$ 7.00
	$45.00

The system of pricing shown above was initiated in April 83 in response to customer criticism of prices caused by allocating support costs on an equal basis. Allocating support costs using a formula based on item costs results in lower prices for low dollar value items.

EXHIBIT B

III

AUTHORIZING DOCUMENT

Modification P 00001 dated 03 June 1982

A54

STANDARD FORM 30, JULY 1966
GENERAL SERVICES ADMINISTRATION
FED. PROC. REG. (41 CFR) 1-16.101

[illegible]/MODIFICATION OF CONTRACT

PAGE 1 OF 2

1. AMENDMENT/MODIFICATION NO. P00001 ✓

2. EFFECTIVE DATE 03 JUN 1982

3. REQUISITION/PURCHASE REQUEST NO. (2198)

4. PROJECT NO. *(If applicable)*

5. ISSUED BY CODE N61339
Naval Training Equipment Center
Orlando, Florida 32813
Buyer/Symbol: Jacqueline J. Powers/N611
(305) 646-4771/AV 791-4771

6. ADMINISTERED BY *(If other than block 5)* CODE [illegible]
DCASMA Garden City
605 Stewart Ave.
Garden City, L.I., New York 11530

7. CONTRACTOR NAME AND ADDRESS CODE 57230 FACILITY CODE
(Street, city, county, state, and ZIP Code)

ORIGINAL

Gould, Inc.
Simulation Systems Division
50 Marcus Drive
Melville, New York 11747

8.
☐ AMENDMENT OF SOLICITATION NO. ____
DATED ____ *(See block 9)*
☒ MODIFICATION OF CONTRACT/ORDER NO. N61339-82-C-0042
DATED 13MAY82 *(See block 11)*

9. THIS BLOCK APPLIES ONLY TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in block 12. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

Offerors must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation, or as amended, by one of the following methods:

(a) By signing and returning ____ copies of this amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE ISSUING OFFICE PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If, by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided such telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

10. ACCOUNTING AND APPROPRIATION DATA *(If required)*

SECTION G N/C

11. THIS BLOCK APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS

(a) ☒ This Change Order is issued pursuant to Section C, Paragraphs 3 and 4 of the Contract
The Changes set forth in block 12 are made to the above numbered contract/order.

(b) ☐ The above numbered contract/order is modified to reflect the administrative changes (such as changes in paying office, appropriation data, etc.) set forth in block 12.

(c) ☐ This Supplemental Agreement is entered into pursuant to authority of ____
It modifies the above numbered contract as set forth in block 12.

12. DESCRIPTION OF ~~[illegible]~~ MODIFICATION

Exhibit "W"
SPARES CLIN 0003

Exhibit "X"
Ground Support CLIN 0004

PROVISIONED ITEMS ORDER

a. The contractor is hereby authorized to proceed with the acquisition and/or fabrication of the items indicated in the Material Requirements List for CLIN 0003 dated 1 June 1982 (10 pages) and CLIN 0004 dated 1 June 1982 (2 pages), attached hereto. The prices reflected are estimates only and are subject to negotiation between the contractor and the ACO.

b. The estimated not-to-exceed amount for this Order is $1,000,000 (CLIN 0003 not-to-exceed $900,000; CLIN 0004 not-to-exceed $100,000). These amounts shall not be exceeded without prior approval of the PCO. There are sufficient funds in CLIN's 0003 and 0004 to accomplish definitization.

c. The Contractor is required to submit a proposal for the effort herein on DD Form 633 with appropriate cust back-up data and delivery schedule to the ACO within 60 days after receipt of this order. In the event of failure to agree on price, the ACO shall make a determination as to the price to be paid subject to the disputes clause of the contract.

Except as provided herein, all terms and conditions of the document referenced in block 8, as heretofore changed, remain unchanged and in full force and effect.

13. ☑ [illegible] TO SIGN THIS DOCUMENT ☐ [illegible]

14. NAME OF CONTRACTOR/OFFEROR
BY ____
(Signature of person authorized to sign)

15. NAME AND TITLE OF SIGNER *(Type or print)*

16. DATE SIGNED

17. UNITED STATES OF AMERICA
BY Thomas V. Bordonaro
(Signature of Contracting Officer)

18. NAME OF CONTRACTING OFFICER *(Type or print)*
THOMAS V. BORDONARO

19. DATE SIGNED
3 June 1982

d. The delivery period shall be as agreed to by the Contractor and the ACO. Delivery shall be F.O.B. Destination to:

Naval Air Station Whiting Field
Milton, Florida 32570

e. Inspection and acceptance shall be in accordance with Section E.

f. In accordance with DAR 4-303.3, this provisioning order shall be definitized within 180 days from the effective date of this document.

g. Upon definitization, the ACO shall assign the ELIN's sequentially utilizing the Exhibit Identification "W" for CLIN 0003 and "X" for CLIN 0004.

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL P
		REPAIRABLES				
1	DI, CCA	HS070D400 -1	57230	7		
2	DO, CCA	HS070D400 -4	57230	6		
3	CI,CCA	HS070D400 -1	57230	2		
4	CO,CCA	HS070D400 -6	57230	5		
5	COMMAND, CCA	HS070D400 -2	57230	2		
6	QUADRANT ASSY	HS112D442 -1	57230	4		
7	CARD, EXTENDER	HS070D402 -7	57230	2		
8	HDO, CCA	HS07D4033-1	57230	3		
9	REGULATOR, 10 VOLT, CCA	HS070D404 -1	57230	2		
10	HIGH CURRENT DO, CCA	HS070D404 -2	57230	7		
11	FILTER, CCA	HS070D4061-1	57230	2		
12	SUMMER, CCA	HS070D4062-1	57230	2		
13	TRIGGER, CCA	HS070D4063-1	57230	2		
14	AVC, CCA	HS070D406 -1	57230	4		
15	OSC, CCA	HS070D4065-8	57230	6		
16	LVL, FHFT/BUFFER, CCA	HS070D4069-1	57230	2		
17	CKT CD ASSY	HS070D407 -1	57230	2		
18	BW, CCA	HS070D4079-2	57230	2		
19	WHITE NOISE, CCA	HS070D408 -1	57230	2		
20	RFI TEST PANEL	HS070D4121-4	57230	+0		
21	CKT CD ASSY	HS070D4409-1	57230	2		
22	INST. TEST SET	HS070D4240-1	57230	+0		
23	PROP BT, CCA	HS070D4480-1	57230	2		
24	CKT CD ASSY	HS070D4490-3	57230	3		
25	CKT CD ASSY	HS070D4896-1	57230	2		
26	CKT CD ASSY	HS070D4897-1	57230	2		
27	CKT CD ASSY	HS070D4898-1	57230	2		
28	CKT CD ASSY	HS112D4422-1	57230	2		
29	CKT DC ASSY	HS112D4108-1	57230	2		
30	CKT CD ASSY	HS112D4108-2	57230	2		
31	COMP BD ASSY	HS096D1408-1	57230	2		
32	COMP BD ASSY	15316	91833	2		
33	CKT CD ASSY	HS112D4108-3	57230	2		
34	CKT CD ASSY	HS112D4108-4	57230	2		

I NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
35	POWER SUPPLY	EMA-5/6C	23934	1		
36	POWER SUPPLY	HS070D4140-2	57230	3		
37	POWER SUPPLY	HS112D4216-1	57230	2		
38	POWER SUPPLY	HS112D4216-2	57230	2		
39	POWER SUPPLY	HS112D4216-3	57230	2		
40	POWER SUPPLY	HS112D4216-4	57230	2		
41	POWER SUPPLY	HS112D4216-5	57230	2		
42	OV PROTECT MODULE	OVP-1	24429	6		
43	POWER SUPPLY	2EE5-37B	24429	2		
4	INDICATOR, TACAN	HS112D4423-1	57230	4		
5	INDICATOR, AOA	HS070D5063-54	57230	4		
6	POWER SUPPLY	HS070D4126-	57230	2		
7	POWER SUPPLY	HS070D4126-	57230	2		
8	INDICATOR, ATT	HS070D5239-1	57230	4		
9	INDICATOR, CRSE DEV	HS070D5240-1	57230	4		
0	INDICATOR, CLOCK	ABU-11/A	81349	2		
1	CARD FILE ASSEMBLY	HS070D4321-	57230	10		
2	INDICATOR, TORQUE	HS070D5063-17	57230	4		
3	INDICATOR, ALT	HS070D5214-	57230	4		
4	INDICATOR, RADIO MAG	HS070D5229-	57230	4		
5	INDICATOR, FLAP POS	HS070D5063-12	57230	4		
6	INDICATOR, PROP RPM	HS070D5063-16	57230	4		
7	INDICATOR, TURB RPM	HS070D5244-	57230	4		
8	INDICATOR, OIL TEMP	HS070D5075-	57230	4		
9	INDICATOR, VERT VEL	HS070D5063-18	57230	4		
0	INDICATOR, TURN-BANK	HS070D5225-	57230	4		
1	INDICATOR, ACCEL	HS070D5217-	57230	4		
2	COMPASS, STANDBY	HS070D5238-	57230	4		
3	ACTUATORS, SERVO, MATCHED	A085S (CONSISTS OF A085S-1-4-4 A085S-1-4-6)	94697	3		
	TUBE, CRT	520268-004	08904	3		
5						
	DUMB TERMINAL	Model ADM3A	98438	1		
	MT FORMATTER	9350	20886	1		
	RTI MODULE	2345	20886	1		
	HEX DISPLAY	2145	20886	1		
	AC DIST ASSY	2195	20886	1		

ITEM NUMBER	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL P.
71	COMPUTER NUCLEOUS	2290	20886	~~1~~ 0		
72	CABLE ASSY	HS070D4187-072	57230	~~1~~ 0		
73	CABLE ASSY	HS070D4185-060	57230	~~1~~ 0		
74	CABLE ASSY	HS070D4102-040	57230	~~1~~ 0		
75	CABLE ASSY	HS112D 116-1	57230	~~1~~ 0		
76	CABLE SET	HS070D4 40-11	57230	~~1~~ 0		
77	TERM CONN ASSY	HS070D4 18-3	57230	2		
78	PANEL ASSY	HS112D4 01-1	57230	2		
79	PANEL ASSY, TRANSP	HS112D4 10-1	57230	2		
80	PANEL ASSY, MULT FUN	HS112D 408-1	57230	~~2~~ 2		
81	TRIM TAB ASSY	HS112D 903-1	57230	2		
82	CRANK ASSY	HS112D 425-1	57230	2		
83	POWER SUPPLY	106482 002	08904	~~2~~ 2		
84	CKT CD ASSY	162576 2	08904	~~2~~ 2		
85	CKT CD ASSY	162244 -001	08904	~~2~~ 2		
86	CKT CD ASSY	162447 001	08904	~~2~~ 2		
87	CKT CD ASSY	162574 001	08904	~~2~~ 2		
88	CKT CD ASSY	162579 001	08904	~~2~~ 2		
89	CKT CD ASSY	162581 001	08904	~~2~~ 2		
90	CKT CD ASSY	162582 001	08904	~~2~~ 2		
91	CKT CD ASSY	162583 001	06904	~~2~~ 2		
92	CKT DC ASSY	162603 001	08904	~~2~~ 2		
93	SYSTEM CONTROLLER	HS070D 491-3	57230	~~2~~ 2		
94	CONTROLLER, MAG TAPE	9012	20886	~~2~~ 1		
95	MT UNIT	9361	20886	~~2~~ 1		
96	CPU BOARD	105-10 1002-001	20886	~~2~~ 1		
97	LOGIC TERMINATOR	160-10 1007-001	20886	~~2~~ 0		
98	LOGIC TERMINATOR	160-10 1007-003	20886	~~2~~ 0		
99	MEMORY TERMINATOR	160-10 1026-003	20886	~~2~~ 0		
100	LINE PRINTER	B300	20886	~~6~~ 4		
101	DISPLAY	QQA21N	08904	2		
102	PUMP	PVB15- SY-31-CM-11	62983	~~2~~ 1		
103	PROCESSOR, PS	GCT-3 1-2	86151	2		
104	MOTOR	SPEC C A02W20 15 HP, 200 VOLT, 40 AMP, 2760 RPM, 60 HZ 3 PHASE, CLASS 3 FRAME.254TC	05472	~~2~~ 1		

		PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
105	VALVE, 2 WAY	3-06-2-110 VAC		4		
106	HEAT EXCHANGER	A025 1/4 HP, 208VAC, 3PH, 60CY		~~2~~ /		
107	VALVE, 2-WAY	4WE10D4.1/N'5 SUBPLATE G 39/5	27005	4		
108	GENERATOR, FUNCTION	FG503	80009	1		
109	VALVE-3 WAY	3WE10B4.1/N'5 SUBPLATE G57/5	27005	1		
110	MANIFOLD	KT-3357-11	25573	1		
111	RESERVOIR, 40 GAL BASE & COVER	KT3357-10	25573	1		
112	VALVE, 2-WAY	105-110VAC		2		
113	ANNUNCIATOR	104-384005-1	70898	~~2~~ /		
114	GENISCO CCA	GCT-3091	50508	2		
115	AC VOLTMETER	2153 0-150	55026	12		
116	CKT CD ASSY, SEL I/O	CD0750-2 REV D2	50508	2		
117	MONITOR CONTROL	CD00640-3-1 REV D8	50508	2		
118	CKT CD ASSY, GTC3038, CVG	CD01820-18-4 REV A2	50508	2		
119	CKT CD ASSY, MEMORY	CD01000-2-2 REV L2	50508	~~6~~4		
120	PROCESSOR CHASSIS	GCT 3000	50508	~~2~~ /		
		CONSUMABLES				
121	FUSE, CARTRIDGE	MDA10	71400	60		
122	FUSE, CARTRIDGE	MDL1-1/4	71400	60		
123	LOAD CELL	JP-500	AAAB	7		
124	KIT, DIODE	SD-D	AAAAC	1		
125	KIT, DIODE	OR-D	AAAAC	1		
126	KIT, CAPACITOR	TD1-D	AAAAC	1		
127	KIT, CAPACITOR	TD2-D	AAAAC	1		
128	KIT, CAPACITOR	PD-D	AAAAC	1		
129	KIT, CAPACITOR	DP-D	AAAAC	1		
130	KIT, CAPACITOR	CD-D	AAAAC	1		
131	KIT, CAPACITOR	YM-D	AAAAC	1		
132	KIT, CAPACITOR	PMC-D	AAAAC	1		
133	KIT, CAPACITOR	EM-D	AAAAC	1		
134	KIT, RESISTOR	RM25-D	AAAAC	1		
135	KIT, RESISTOR	RM50-D	AAAAC	1		

[illegible]		PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRIC
136	FUSE, CARTRIDGE	MDL1-1/2	71400	100		
137	FUSE, CARTRIDGE	MDL2	71400	60		
138	FUSE, CARTRIDGE	MDL2.5	71400	60		
139	FUSE, CARTRIDGE	MDL8	71400	60		
140	FUSE, CARTRIDGE	MDX2-1/2	71400	60		
141	FUSE, CARTRIDGE	MDX5	71400	60		
142	FUSE, CARTRIDGE	MDX7	71400	60		
143	LIGHT, POST	A8970C-2-327	72914	14		
144	LIGHT	104-384028-1	70898	2		
145	LIGHT	104-384029-1	70898	2		
146	LAMP	2185D	71744	14		
147	SWITCH					
148	SWITCH	MS24523-26	96906	~~12~~ 6		
149	SWITCH	MS24523-31	96906	~~12~~ 6		
150	SWITCH	MS24524-23	96906	~~14~~ 6		
151	SWITCH	MS35058-23	96906	~~12~~ 6		
152	SWITCH	MS35058-26	96906	~~12~~ 6		
153	SWITCH	MS35058-27	96906	~~12~~ 6		
154	SWITCH	MS35058-31	96906	~~12~~ 6		
155	SWITCH	MS35059-22	96906	~~14~~ 6		
156	SWITCH	MS35059-23	96906	~~12~~ 6		
157	SWITCH	MS24523-22	96906	~~12~~ 6		
158	SWITCH	PA-2015	88557	12		
159	SWITCH	V3-1003	91929	14		
160	SWITCH	311SM703-T	91929	12		
161	SWITCH	311SM706-T	91929	12		
162	SWITCH MODULE	44D30-01-1-AJN	81073	12		
163	SWITCH, PB	6A54	91929	12		
164	SWITCH, PB	800T-B1D1	01121	12		
165	ACTUATOR	800T-B6D2	01121	12		
166	SWITCH	JV-7	91929	12		
167	SPEAKER	MS27407-4	96906	~~12~~ 6		
168	SPRING	F8-2X	75234	7		
169	SPRING	77	18028	6		
170	SPRING	LE-026C-1	04830	6		
171	SPRING	LE-026C-3	84830	6		
172	SPRING	100942-J-0026-22	70898	6		
173	BELT	74	18028	6		
174	CONTROL, HEAT	DFAT272	29964	10		
175	SENSOR	104-550019-5	70898	2		
176	WRENCH TORQUE	3001-T/27-B208 6026	14604	3		
177	CLIP TEST	40082	-	1		

EM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRIC
178	RELAY	W78CSX-3	94696	~~12~~ 2		
179	CKT BREAKER	HS070S6032-1	57230	~~3~~ 1		
180	CKT BREAKER	HS070S6032-3	57230	~~6~~ 1		
181	CKT BREAKER	HS070S6032-9	57230	~~10~~ 1		
182	CKT BREAKER	HS070S6032-10	57230	~~3~~ 1		
183	CKT BREAKER	HS070S6032-11	57230	~~6~~ 1		
184	CKT BREAKER	HS070S6032-12	57230	~~4~~ 1		
185	CKT BREAKER	HSC70S6032-13	57230	~~2~~ 1		
186	CKT BREAKER	HS070S56032-14	57230	~~3~~ 1		
187	CKT BREAKER	HS070S6032-15	57230	~~3~~ 1		
88	INTEGRATED CKT	ES48TTL-74221	57230	24		
89	INTEGRATED CKT	ES48TTL-7432	57230	24		
90	INTEGRATED CKT	ES48TTL-7404	57230	60		
91	INTEGRATED CKT	ES48TTL-7440	57230	30		
92	INTEGRATED CKT	ES48TTL-7408	57230	30		
93	INTEGRATED CKT	ES48TTL-7430	57230	30		
94	INTEGRATED CKT	ES48TTL-7475	57230	30		
95	INTEGRATED CKT	ES48TTL-74116	57230	30		
96	INTEGRATED CKT	ES48TTL-74123	57230	50		
7	INTEGRATED CKT	ES48TTL-74157	57230	30		
8	INTEGRATED CKT	ES48TTL-7400	57230	~~20~~ 1		
9	INTEGRATED CKT	ES48TTL-74S157	57230	~~20~~ 1		
0	INTEGRATED CKT	ES48TTL-7402	57230	~~60~~ 1		
1	INTEGRATED CKT	ES48TTL-7420	57230	~~20~~ 1		
2	INTEGRATED CKT	ES48TTL-7486	57230	30		
3	INTEGRATED CKT	ES48TTL-74S00	57230	~~20~~ 1		
[illegible]	INTEGRATED CKT	ES48TTL-7437	57230	~~20~~ 1		
[illegible]	INTEGRATED CKT	ES48TTL-7485	57230	~~20~~ 1		
[illegible]	INTEGRATED CKT	N74S20F	18324	~~20~~ 1		
[illegible]	INTEGRATED CKT	ES48TTL-74H 1	57230	~~20~~ 1		
[illegible]	INTEGRATED CKT	ES48TTL-74161	57230	~~20~~ 1		
[illegible]	INTEGRATED CKT	ES48TTL-74138	57230	~~20~~ 1		
[illegible]	INTEGRATED CKT	ES48TTL-74145	57230	30		
[illegible]	INTEGRATED CKT	ES48TTL-74151	57230	30		
[illegible]	INTEGRATED CKT	ES48TTL-74175	57230	36		
[illegible]	INTEGRATED CKT	ES48TTL7422	01295	~~20~~ 1		
[illegible]	INTEGRATED CKT	ES48TTL-7425	01295	30		
[illegible]	INTEGRATED CKT	ES48TTL-74S153	01295	30		
[illegible]	INTEGRATED CKT	ES48TTL-8095	01295	30		
[illegible]	INTEGRATED CKT	ES48TTL-8096	27014	30		(/)

ITEM NO.	[illegible]	PART NUMB	FSCM	QTY	UNIT PRICE	TOTAL PRICE
218	INTEGRATED CKT	MJE1090	04713	~~100~~ 1		
219	DECAL	104-41058-3	70898	~~10~~ 1		
220	DECAL	104-524032-1	70898	~~10~~ 1		
221	DECAL	104-530047-1	70898	~~10~~ 1		
222	DECAL	104-530063-1	70898	~~10~~ 1		
223	DECAL	104-550016-1	70898	~~10~~ 1		
224	DECAL	104-550017-1	70898	~~10~~ 1		
225	DECAL	104-560013-1	70898	~~10~~ 1		
226	LOUVER	455	70898	~~2~~ 1		
		[illegible]	70898	~~6~~ 1		
[illegible]	[illegible]	43-364230	70898	~~6~~ 1		
236	HEAD SET-MIC	H-157/AIC	33160	~~1~~ 7		
237	BELL	156G-4-G1	19557	~~10~~ 1		
238	RELAY	27E122	77342	3		
239	VALVE, SHUT-OFF	N1512	20621	3		
240	VALVE, SHUT-OFF	N1516	20627	2		
241	YOKE, DEFLECTION	994043	08904	~~4~~ 2		
242	GAGE	J4876, 0-2000 PSI 2 1/2" DIAL, 1/4 BOTT CONN	20627	1		
[illegible]	GAGE, LEVEL	G620-10-A01-SP	24346	1		
244	STRAINER	SU55SF24	16954	~~2~~ 1		
245	COUPLING	C-1500, 5/8 BORE 3/8 X 3/16 KEYWAY	96432	~~2~~ 1		
246	VALVE, CHECK	S15A 1/5	27005	~~2~~ 1		
247	VALVE, RELIEF	CS-06-F-40	23934	~~1~~ 2		
248	FILTER	LP-025-B-P-C16-N W/ELEMENT 072-60175	94697	~~2~~ 1		

	VALVE, GATE	370-1	31995	2
250	VALVE 2-WAY	4WEH16E3C/6AW120.60N/5 SUBPLATE 3172/5	27005	~~2~~ 2
251	GAGE	430, 0-2000PSI, 3 1/2 DIA. 1/4 BACK CONN, ACALOY CASE PANEL MOUNT	70462	1
251	SWITCH, PRESSURE	A400V-S-1-12	12190	4
252	VALVE, GATE	370-3/4" NPT	31995	1
253	COUPLER	VHC-12-12F	78357	2
254	COUPLER	VHC-4-F	78357	2
255	HOSE, 28"	J4-HA08NJ-28	09505	1
256	HOSE, 15"	J4-HA08XO NJ-15	09505	1
257	CONTROL, FLOW	NS-400-S	09990	2
258	VALVE, CHECK	CS-400-S	09990	2
259	NIPPLE	VHN-12-12	78357	2
260	NIPPLE	VHN-4-4F	78357	2
261	HOSE 76"	J4-HA08XO NJ-76	09505	1
262	HOSE 26"	J4-HA08XO NJ-26	-9505	1
263	SWITCH DISCONNECT	THC 3400 FC	93201	1
264	STARTER	14FF32AA WITH (3)H.46 HEATERS', 208 VAC, 3 PH, 40A	23826	~~1~~ 1
265	STARTER	14BF32AA WITH H.11 HEATERS' 208 VAC, 3 PH, 1.4 A, PS'	23826	1
266	LIGHT	A89700-1-327	72914	~~2~~ 4
267	LIGHT, FLOOD	A7015C	70898	2
268	SWITCH	C1003	05402	~~1~~ 2
269	SWITCH	C2006	81640	~~1~~ 2
270	SWITCH ASSY	C-4100P3R-175	05402	~~12~~ 2
271	SWITCH	MS24523-21	96906	~~12~~ 2
272	SWITCH	MS24523-23	96906	~~12~~ 2
273	TRANSDUCER	30001-10K-0-500PSI	10651	6
274	SWITCH, PB	800T-A2D2	01121	2
275	SWITCH, PB	800H2A	01121	2
276	LIGHT PILOT	800T-A10G	01121	6
277	RELAY, CONTROL	700-N800-A1	01121	5
278	RELAY, TIME DELAY	700-NPT-A1	01121	1
79	BLADDER	A105-252	72909	1
80	BLADDER	A106-252	72909	1

[illegible] (8)

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PR
281	ELEMENT, FILTER	071-60175	94697	~~1~~ 1		
282	ELEMENT, FILTER	970-P-110/	12190	~~10~~ 7		
283	HOSE 68"	J4-HA08X08HJ-68	09505	1		
284	FLANGE	PD 9760-22	12196	2		
285	FUSE	FRN-R-100	71400	10		
286	FLOW CONTROL	HE6G1-2/5	58114	1		
287	VENT AND FILTER	750	99381	1		
288	ACCUMULATOR	A105-200-5 GAL ADAPTER	26337	1		
289	ACCUMULATOR	A106-200-10 GAL ADAPTER	26337	1		
290	COUPLING	C-1500 7/8 BORE 1/4 X 1/8 KEYWAY	96432	1		
291	BELT, DRIVE 60 Hz	102634-01	32097	~~6~~ 1		
292	TENSION IDLER ASSY	109128-01	32097	~~6~~ 1		
293	SPRING	102667-01	32097	1		
294	LAMP & LENS	103499-01	32097	~~2~~ 1		
295	FILTER, AIR	614-0006	32097	~~28~~ 2		
296	TRANSDUCER ASSY, UPPER & LOWER	102764-02	32097	~~2~~ 1		
297	CAPACITOR	134-4792	32097	~~7~~ 1		
298	CARTRIDGE DISC, D3422 M016 NSC	904416-01	32097	2		
299	HEAD, LOWER	526-0008	32097	~~4~~ 2		
300	HEAD, UPPER	526-0009	32097	~~4~~ 2		
301	SENSOR RECEIVER ASSY	104514-04	32097	~~2~~ 1		
302	MONITOR CONTROL PCBA	103571-01	32097	~~2~~ 1		
303	PULLEY KIT, DRIVE MOTOR	103642-02	32097	~~6~~ 1		
304	PHOTO SENSOR ASSY	102320-01	32097	~~6~~ 1		
	TENSION ARM SENSOR ASSY	100858-05	32097	~~6~~ 1		
306	CAPSTAN	103353-01	32097	~~6~~ 1		
307	TAKE UP REEL	516-0100	32097	~~7~~ 1		
308	BELT, TIMING	610-0020	32097	~~3~~ 1		
309	RELAY	502-1243	32097	~~4~~ 1		
10	GEAR MOTOR ASSY	102258-01	32097	~~10~~ 5		
11	SWITCH	506-6360	32097	~~2~~ 1		
12	PAINT, TOUCH UP	1956358	57230	~~4~~ 2		
13	BRAKE ACCUMULATOR	R2-20-05	14951	0 6		

CONTRACTOR FURNISHED GSE

M NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
14	WANDS, CLEANING	623-0002	32097	1 pr.		
5	TESTER, VOICE COIL POI	103607	32097	1		
6	TOOL, ADJUSTMENT	103619-01	32097	1		
7	EXTRACTOR, PIN	HT2285	27264	1		
8	OPTICAL ENCODER	S-9200	32097	1		
9	GAGE, SAVER	200-A0-00	12762	1		
0	COUNTER TIMER	635K	14907	1		
1	TOOL, ALIGNMENT	102382-01	32097	1		
2	TOOL, ALIGNMENT	104830-01	32097	1		
3	CARD, EXTENDER	HS070D4011-1	57230	2		
4	SOLDERING STATION	PRS150A	54111	1		
5	SOLDERING IRON	6903	78967	~~15~~ /		
6	HOLDER, SOLDERING IRON	6990	78976	~~2~~ /		
7	NIB, PRINCESS	6950	78976	~~12~~ /		
8	NIB, PRINCESS	6951	78976	~~12~~ /		
9	SOLDER IRON	776	78976	~~2~~ /		
0	HEATER	537	78976	~~2~~ /		
1	HEATER	4037-S	78976	~~2~~ /		
2	TIP, 1/4"	113	78976	~~12~~ /		
3	TOOL KIT	TC-150/ST	96508	2		
4	WRENCHES, HEX KEY	13025	08292	~~2~~ /SET		
5	BALL DRIVER SET	2893800	31734	~~2~~ /SET		
6	GAUGE, FEELER	GS-1	65814	1		
7	BAG, PUNCH	C-82	65814	1		
8	HAMMER	HBP-2	65814	1		
9	HAMMER, HAND, SLEDGE	HSF-105	65814	1		
0	HAMMER, CLAW	HBP-3-0	65814	1		
1	KIT, FIELD, CRT	FMK 9204	20886	~~2~~ /		
2	KIT, DEPOT, CRT	DMK 9204	20886	~~2~~ /		
3	KIT, PC, CRT	PCMK 9204	20886	~~2~~ /		
4	HEX DRIVER	AA3B107	52346	1		
5	WRENCH, TORQUE 0-15 IN/OZ	IFTDH-A	6016	1		
6	GAUGE, SPRING TENSION 16 OZ	1375T11	39428	1		
7	GAUGE, 0-150 GRAM	1369T-3	39428	1		
	STANDARD SOLDAPULLT	PT-109	91920	1		

349	MICRO TIPPED SOLDAPULLT	PT-209	91926	~~1~~ 0	
350	TAPE, MEASURING, 12'	AA1958210	52346	1	
351	TAPE, MEASURING, 50'	AA2228050	52346	~~1~~ 0	
352	KIT, MAINT, CRT	TMK-9204	20886	~~2~~ 1	
353	VACUUM CLEANER	B133-10W5888	57230	~~1~~ 0	
354	PROPLIGHT, (50 FT)	168-692W1765	57230	1	
355	SHIMS, .0005, COPPER	SHIM, .0005, COPPER	55844	1 PKG.	
356	SHIMS, .005, MYLAR	SHIMS, .005, MYLAR	55844	1 PKG.	
357	KIT, MAINT, CD	TMK-P 9508	20886	~~2~~ 0	
358	CLIP TEST	40235	25677	~~1~~ 0	
359	CLIP TEST	40202	25677	~~1~~ 0	
360	DISKETTE	TL101	25677	~~10~~ 0	
361	TEST STAND, IC	2031A	25677	1	
362	TESTER, DUAL DISK	3000A	25677	~~1~~ 0	
[illegible]	CLIP TEST	40039	25677	~~1~~ 0	
364	CLIP TEST	40234	25677	~~1~~ 0	
365	CLIP TEST	40203	25677	~~1~~ 0	
366	CLIP TEST	40209	25677	~~1~~ 0	
367	LIGHT	LFH-2FE	15607	~~2~~ 1	
368	SCREWDRIVER, OFFSET	30250	08292	~~2~~ 1	
369	SCREWDRIVER, JEWELER'S	580116	89750	~~2~~ 1/SET	
370	HACKSAW, HEAVY DUTY	169B156	52366	~~2~~ 0	
371	KNIFE, UTILITY, POCKET	130B145	52366	~~2~~ 0	
372	CKT BD FIXTURE	27100	71660	~~2~~ 1	
373	OPTIONAL EXT ARMS	27101	71660	~~2~~PR 1	?.
374	SCISSORS, ELECT	14B467	52366	~~2PR~~ 0	?,
375	SNIPS, DB TINNER	4B335	52366	~~2PR~~ 0	
376	WRENCHES, INGITION	35B254	52366	~~2~~ 1 SETS	
377	PLIERS, VICE-GRIP	131B115	52366	2	
378	STAND, SOLDERING IRON	46B195	52366	~~2~~ 1	
379	MOTOR, DRILL 1/2"	MODEL 597	55111	1	
380	EXTENSION CORD, 100 FT	644	92194	~~4~~ 2	
381	WIRE STRIPPER KIT	80B500	52366	~~2~~ 1	
382	CIRCUIT TESTER	97B271	52366	1	
383	FILE SET	14B096	52366	2	
384	ENGRAVER	22B320	52366	1	
385	HEAT GUN	46B310	52366	~~2~~ 1	
386	EXTRACTOR, IC	46B186	52366	1	
387	TECH-WICK	416B007	52366	~~4~~ 1	
388	VISE, BENCH	39R134	52366	1	

Page(11)

NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
		CONTRACTOR FURNISHED GSE				
89	PROBE, LOGIC	545A	28480	~~1~~ 1		
90	VOLTMETER, DIGITIAL	3466A	28480	2		
91	VOLTMETER, DIGITAL	245	51692	1		
92	VOLT-OHMMETER	260-6XLPM	55026	2		
3	WRENCH, SUPERJUST	AP-15-15"	65814	1		
4	WRENCH, SUPERJUST	AP-10A-10"	65814	2		
5	WRENCH, SUPERJUST	AP-6-6"	65814	1		
6	WRENCH, END BOX	WS-1172AR	65814	1 SET		
7	WRENCH SOC SET 1 - 3/8" DRIVE	WSR-16	65814	1 SET		
8	BAR, EXTENSION	B-110	65814	1		
9	BAR, EXTENSION	B-115	65814	1		
0	ADAPTER	BS-130	65814	1		
1	ADAPTER	BS-131	65814	1		
2	SOCKET, 1/2"	S-41A	65814	1		
3	ADAPTER	SH-130	65814	1		
4	WRENCH TORQUE	BTD-2-250	65814	1		
5	WRENCH TORQUE 2 - 18" PIPE	BTD-2-50F	65814	1		
6	WRENCH, CHAIN	CW-4	65814	1		
7	DRILL SET	TDS-29	65814	1 SET		
8	TOOL BOX	TB6024	65814	1		
9	PLIERS, SLIP-JOINT	PL-6	65814	1		
10	PLIERS, SLIP-JOINT	PL-1522C	65814	1		
11	SCREW DRIVER, PHILLIPS	DPGS-4	65814	~~1~~/SETS		
12	SCREWDRIVER, SQ BLADE SET -	DSGS-4	65814	~~1~~/SETS		
13	EXTRACTOR, SCREW	EXS-206	65814	1 SET		
14	KIT CARD READER	FMK 9210-3	20886	3		
15	KIT CARD READER	DNK H9210-3	20886	3		
16	KIT CARD READER	PCNK J9210-3	20886	3		
17	KIT CARD READER	THK F9210-3	20886	3		
18	T BAR RUDDER	HSNPN	57230	1		
19	GENERATOR, CCTV TEST PATTERN	1210	27432	~~1~~ 0		
20	GENERATOR, MULTIRATE SYNC	1306	27432	~~1~~ 0		
21	GENERATOR, VIDEO SWEEP	VS-60B OR EQUIV.	23042	~~1~~ 0		
22	MULTIMETER W/PROBE	8010A	89536	1		
23	BLADDER INSERTION ROD	600765	09837	1		
24	BRUSH RECORDER (2600)	2107-6606-00	96765	1		
25	REGULATOR	806-1135	00741	1		
26	GAUGE 0-1500	8410028	94080	1		
	GAUGE 0-4000	8410093	94080	1		

Page(1)

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
428	HYDROTHERMOGRAPH	612X9-HT-00-00-7M-L	08987	1		
429	ANALYZER	MYRIAD/XK MODEL 440	NONE*	+0		
430	PURIFICATION FLUID SYSTEM	ADA3528BGZ5N	Paul Lad & Marine Co.	+0		
431	GAUGE, SNUBBER	150-A0-00	12762	+/		
432	GAUGE, FORCE	L-30	80545	1		
433	FILTER BUGGY PORT	HFB-2K10-1.5	08332	1		
434	CUTTING TOOL	274-FC	53237	+0		
435	BENDING TOOL	368-FH-1/4	53237	+0		
436	BENDING TOOL	368-FH-5/16	53237	+0		
437	BENDING TOOL	368-FH-3/8	53237	+0		
438	FLARING TOOL	376-37	53237	+0		
439	FLARING TOOL	180LF	23338	+0		
440	ADJ SPANNER WRENCH	31-363	57230	1		
441	1-1/4 WRENCH	25-240	57230	1		
442	1-1/2 WRENCH	25-248	57230	1		
443	1-5/8 WRENCH	25-252	57230	1		
444	SAW HORSE, MOTION BASE	HS112D0201-1	57230	1		
445	CABLE ASSY	HS070D4255-084	57230	1		
446	INTEG. CKT	ES48TTL-7406	57230	20		
447	EXTRACTOR	5071-3	89020	1		
448	INSTALLING TOOL	MS24256A20	96906	1		
449	INSTALLING TOOL	305183	00779	1		
[illegible]	CRIMPING TOOL	59250	00779	1		
451	CRIMPING TOOL	59239-4	00779	1		
452	CRIMPING TOOL	90277-1	00779	1		
453	CRIMPING TOOL	MS3191-2	96906	1		
454	POSITIONER	MS3191-16A	96906	1		
455	POSITIONER	MS3191-16B	96906	1		
456	POSITIONER	MS3191-20A	96906	1		
457	POSITIONER	MS3191-20B	96906	1		
458	CRIMPING TOOL	06-7858-01	91662	1		
459	CRIMPING TOOL	06-7852-01	91662	1		
460	WILBER WHEEL	HS112D1744	57230	1		
461	PEN, NITROGEN *	A768-206	57230	1		
462	LOW LEVEL SWITCH	LS-1800-1801	04034	4		

*HY-TRONIX INDUSTRIES

IX

MODIFICATION A 00002
Dated 29 November 1982

J

STANDARD FORM 30, JULY 1966
GENERAL SERVICES ADMINISTRATION
FED. PROC. REG. (41 CFR) 1-16.101

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

PAGE 1 OF

1. AMENDMENT/MODIFICATION NO. A 00002·

2. EFFECTIVE DATE 82 Nov 29

3. REQUISITION/PURCHASE REQUEST NO. (2188)

4. PROJECT NO. (If applicable)

5. ISSUED BY DCRN-GCB/J4 CODE S 3309A
DCASMA-GARDEN CITY
605Stewart Avenue
Garden City, NY 11530
(J.Yanofsky/X5793/ bj)

6. ADMINISTERED BY (If other than block 5) CODE
SCD:C

7. CONTRACTOR NAME AND ADDRESS CODE 57230 FACILITY CODE
(Street, city, county, state, and ZIP Code)
GOULD SIMULATION SYSTEMS INCORPORATED
50 MARCUS DRIVE
MELVILLE, NY 11747

8\.
☐ AMENDMENT OF SOLICITATION NO. ____________,
DATED ____________ (See block 9)
☒ MODIFICATION OF CONTRACT/ORDER NO. N61339-82C-0042
DATED 82 May 13 (See block 11)

9. THIS BLOCK APPLIES ONLY TO AMENDMENTS OF SOLICITATIONS
☐ The above numbered solicitation is amended as set forth in block 12. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.
Offerors must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation, or as amended, by one of the following methods:
(a) By signing and returning ______ copies of this amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE ISSUING OFFICE PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If, by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided such telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

10. ACCOUNTING AND APPROPRIATION DATA (If required)
Item 0003-ACRN:AB 1721506.46JC 000 02251/0 061339 2D 000000 2VC 000000000
Item 0004 ACRN:AC 1701506.43A5 031 B5271/0 068342 2D 000000 020400000010

11. THIS BLOCK APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS No Change in Obligated Amount.
(a) ☐ This Change Order is issued pursuant to ______________________
The Changes set forth in block 12 are made to the above numbered contract/order.
(b) ☐ The above numbered contract/order is modified to reflect the administrative changes (such as changes in paying office, appropriation data, etc.) set forth in block 12.
(c) ☒ This Supplemental Agreement is entered into pursuant to authority of 10 USC 2304 and mutual agreement of both parties.
It modifies the above numbered contract as set forth in block 12.

12. DESCRIPTION OF AMENDMENT/MODIFICATION

1. Pursuant to negotiations of 19 November 1982, this supplemental agreement is issued to definitize modification P 00001 which authorized Gould,Simulation Systems Inc., to provide the following:

CLIN	DESCRIPTION	QTY	U/P	TOTAL AMOUNT
0003AA	Attachment #1 (page 1 thru 11)	1 Lot	$751,454.84	$751,454.84
0004AA	Attachment (page 12 thru 14)	1 Lot	$95,545.16	95,545.16
			TOTAL	$847,000.00

2. The delivery will be on or before 30 June 1983.

3. All other terms and conditions of modification P 00001 remain unchanged.

4. The totalnegotiated firm fixed price is $847,000.00.

Except as provided herein, all terms and conditions of the document referenced in block 8, as heretofore changed, remain unchanged and in full force and effect.

13. ☐ CONTRACTOR/OFFEROR IS NOT REQUIRED TO SIGN THIS DOCUMENT ☒ CONTRACTOR/OFFEROR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN ______ COPIES TO ISSUING OFFICE

14. NAME OF CONTRACTOR/OFFEROR
BY ______________________
(Signature of person authorized to sign)

15. NAME AND TITLE OF SIGNER (Type or print)

16. DATE SIGNED

17. UNITED STATES OF AMERICA
BY ______________________
(Signature of Contracting Officer)

18. NAME OF CONTRACTING OFFICER (Type or print)
HERBERT J YOUNG, ACO

19. DATE SIGNED

ne negotiated firm fixed price for CLIN 0003 is	$751,454.84
The negotiated firm fixed price for CLIN 00004 is	95,545.16
Total Firm Fixed Price	$847,000.00

FUNDING:	CLIN 0003	CLIN 0004
Modification P 00003	$1,000,000.00	$100,000.00
Negotiated Mod A 00002	751,454.84	95,545.16
Balance of Funding Available	$248,545.16	$4,454.84

DISTRIBUTION:

Contractor
DCASMA GC (DCRN-GCCD)
PCO NTEC Orlando, Fla 32813
Code 611, N 601 8cc
NRFC

Attachment #1

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRIC
		REPAIRABLES				
W001	DI,CCA	HS070D4001-1	57230	7	$ 823.00	$5761.00
W002	DO,CCA	HS070D4003-4	57230	6	763.00	4578.00
W003	CI, CCA	HS070D4004-1	57230	2	1824.00	3648.00
W004	CO, CCA	HS070D4006-6	57230	5	1616.00	8080.00
W005	COMMAND, CCA	HS070D4007-2	57230	2	2757.00	5514.00
W006	QUADRANT ASSY	HS112D4429-1	57230	4	1856.00	7424.00
W007	CARD, EXTENDER	HS070D4026-7	57230	2	949.00	1898.00
W008	HDO, CCA	HS070D4033-1	57230	3	822.00	2466.00
W009	REGULATOR, 10 VOLT, CCA	HS070D4044-1	57230	2	1069.00	2138.00
W010	HIGH CURRENT DO, CCA	HS070D4045-2	57230	7	539.00	3773.00
W011	FILTER, CCA	HS070D4061-1	57230	2	1117.00	2234.00
W012	SUMMER, CCA	HS070D4062-1	57230	2	1039.00	2078.00
W013	TRIGGER, CCA	HS070D4063-1	57230	2	1171.50	2343.00
W014	AVC, CCA	HS070D4064-1	57230	4	589.00	2356.00
W015	OSC, CCA	HS070D4065-8	57230	6	591.00	3546.00
W016	LVL, SHFT/BUFFER, CCA	HS070D4069-1	57230	2	1165.50	2331.00
W017	CKT CD ASSY	HS070D4071-1	57230	2	990	1980.00
W018	BW, CCA	HS070D4079-2	57230	2	1205.00	2410.00
W019	WHITE NOISE, CCA	HS070D4089-1	57230	2	1189.50	2379.00
~~W020~~	~~RTI-TEST PANEL~~	~~HS070D4121-4~~	~~57230~~	~~0~~	~~0~~	~~-0-~~
W021	CKT CD ASSY	HS070D4409-1	57230	2	1994.00	3988.00
~~W022~~	~~INST. TEST SET~~	~~HS070D4240-1~~	~~57230~~	~~0~~	~~0~~	~~0~~
W023	PROP BT, CCA	HS070D4480-1	57230	2	1063.50	2127.00
W024	CKT CD ASSY	HS070D4490-3	57230	3	3016.00	9048.00
W025	CKT CD ASSY	HS070D4896-1	57230	2	3796.00	7592.00
W026	CKT CD ASSY	HS070D4897-1	57230	2	3411.50	6823.00
W027	CKT CD ASSY	HS070D4898-1	57230	2	3198.50	6397.00
W028	CKT CD ASSY	HS112D4422-1	57230	2	1839.00	3678.00
W029	CKT CD ASSY	HS112D4108-1	57230	2	956.50	1913.00
W030	CKT CD ASSY	HS112D4108-2	57230	2	950.50	1901.00
W031	COMP BD ASSY	HS096D1408-1	57230	2	737.50	1475.00
W032	COMP BD ASSY	15316	91833	2	223.00	446.00
W033	CKT CD ASSY	HS112D4108-3	57230	2	960.50	1921.00
W034	CKT CD ASSY	HS112D4108-4	57230	2	942.00	1884.00

116,130

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
WO 35	POWER SUPPLY	EHA-5/6C	23934	1	$ 300.00	$ 300.00
WO 36	POWER SUPPLY	HS070D4140-2	57230	3	3553.00	10659.00
WO 37	POWER SUPPLY	HS112D4216-1	57230	2	962.00	1924.00
WO 38	POWER SUPPLY	HS112D4216-2	57230	2	962.00	1924.00
WO 39	POWER SUPPLY	HS112D4216-3	57230	2	1548.00	3096.00
WO 40	POWER SUPPLY	HS112D4216-4	57230	2	923.00	1846.00
WO 41	POWER SUPPLY	HS112D4216-5	57230	2	844.50	1689.00
WO 42	CV PROTECT MODULE	OVP-1	24429	6	91.00	546.00
WO 43	POWER SUPPLY	2EES-37B	24429	2	500.00	1000.00
WO 44	INDICATOR, TACAN	HS112D4423-1	57230	4	1500.00	6000.00
WO 45	INDICATOR, AOA	HS070D5063-54	57230	4	1200.00	4800.00
WO 46	POWER SUPPLY	HS070D4126-1	57230	2	2500.00	5000.00
WO 47	POWER SUPPLY	HS070D4126-2	57230	2	600.00	1200.00
WO 48	INDICATOR, ATT	HS070D5239-1	57230	4	6750.00	27000.00
WO 49	INDICATOR, COURSE DEV	HS070D5240-1	57230	4	5143.75	20,575.00
WO 50	INDICATOR, CLOCK	ABU-11/A	81349	2	1414.50	2829.00
~~WO-51~~	~~CARD FILE ASSEMBLY~~	~~HS070D4321-3~~	~~57230~~	~~0~~	~~0~~	~~0~~
WO 52	INDICATOR, TORQUE	HS070D5063-17	57230	4	1451.50	5806.00
WO 53	INDICATOR, ALT	HS070D5214-2	57230	4	8672.50	34690.00
WO 54	INDICATOR, RADIO MAG	HS070D5229-2	57230	4	9032.50	36130.00
WO 55	INDICATOR, FLAP POS	HS070D5063-12	57230	4	1453.50	5814.00
WO 56	INDICATOR, PROP RPM	HS070D5063-16	57230	4	1453.50	5814.00
WO 57	INDICATOR, TURB RPM	HS070D5244-3	57230	4	2404.00	9616.00
WO 58	INDICATOR, OIL TEMP	HS070D5075-3	57230	4	2649.25	10597.00
WO 59	INDICATOR, VERT VEL	HS070D5063-18	57230	4	1427.00	5708.00
WO 60	INDICATOR, TURN-BANK	HS070D5225-2	57230	4	3524.00	14096.00
WO 61	INDICATOR, ACCEL	HS070D5217-2	57230	4	2742.75	10971.00
WO 62	COMPASS, STANDBY	HS070D5238-1	57230	4	2702.50	10810.00
WO 63	ACTUATORS, SERVO, MATCHED	A085-S	94697	3	5000.00	15000.00
WO 64	TUBE, CRT	526268-004	08904	3	1000.00	3000.00
WO66	DUMB TERMINAL	Model ADM3A	98438	1	1785.50	1785.50
WO67	MT FORMATTER	9350	20886	1	8000.00	8000.00
WO68	RTI MODULE	2345	20886	1	3000.00	3000.00
WO69	HEX DISPLAY	2145	20886	1	900.00	900.00
WO70	AC DIS ASSY	2195	20886	1	3000.00	3000.00

275,125.50

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
~~4071~~	~~COMPUTER-NUCLEOUS~~	~~2290~~	~~20886~~	~~0~~	~~$ 0~~	~~$ 0~~
~~4072~~	~~CABLE-ASSY~~	~~HS070D4187-072~~	~~57230~~	~~0~~	~~0~~	~~0~~
~~4073~~	~~CABLE-ASSY~~	~~HS070D4185-060~~	~~57230~~	~~0~~	~~0~~	~~0~~
~~4074~~	~~CABLE-ASSY~~	~~HS070D4102-040~~	~~57230~~	~~0~~	~~0~~	~~0~~
~~4075~~	~~CABLE-ASSY~~	~~HS112D3116-1~~	~~57230~~	~~0~~	~~0~~	~~0~~
~~4076~~	~~CABLE-SET~~	~~HS070D4240-11~~	~~57230~~	~~0~~	~~0~~	~~0~~
4077	TERM CONN ASSY	HS070D4118-3	57230	2	1058.00	2116.00
4078	PANEL ASSY	HS112D4101-1	57230	2	8959.50	17919.00
4079	PANEL ASSY, TRANSP	HS112D4410-1	57230	2	1550.50	3101.00
4080	PANEL ASSY, MULT FUN	HS112D4408-1	57230	2	8160.75	16321.50
4081	TRIM TAB ASSY	HS112D4903-1	57230	2	7361.00	14722.00
4082	CRANK ASSY	HS112D4425-1	57230	2	2969.00	5938.00
4083	POWER SUPPLY	106482-002	08904	2	1000.00	2000.00
4084	CKT CD ASSY	162576-2	08904	2	100.00	200.00
4085	CKT CD ASSY	1622446-001	08904	2	200.00	400.00
4086	CKT CD ASSY	162447-001	08904	2	600.00	1200.00
4087	CKT CD ASSY	162574-001	08904	2	200.00	400.00
4088	CKT CD ASSY	162579-71G	08904	2	500.00	1000.00
4089	CKT CD ASSY	162581-001	08904	2	150.00	300.00
4090	CKT CD ASSY	162582-001	08904	2	150.00	300.00
4091	CKT CD ASSY	162583-001	08904	2	177.00	354.00
4092	CKT CD ASSY	162603-001	08904	2	150.00	300.00
4093	SYSTEM CONTROLLER	HS070D4491-3	57230	2	5335.40	10670.80
4094	CONTROLLER, MAG TAPE	9013	20886	1	5000.00	5000.00
4095	RF UNIT	9361	20886	1	8000.00	8000.00
4096	CPU BOARD	105-103003-001	20886	1	20000.00	20000.00
~~4097~~	~~LOGIC-TERMINATOR~~	~~160-103007-001~~	~~20886~~	~~0~~	~~0~~	~~0~~
~~4098~~	~~LOGIC-TERMINATOR~~	~~160-103007-003~~	~~20886~~	~~0~~	~~0~~	~~0~~
~~4098~~	~~MEMORY-TERMINATOR~~	~~160-103026-003~~	~~20886~~	~~0~~	~~0~~	~~0~~
4100	LINE PRINTER	B300	20886	4	8000.00	32000.00
4101	DISPLAY	QQA21N	08904	2	8000.00	16000.00
4102	PUMP	PVB15-RSY-31-CM-11	62983	1	902.00	902.00
4103	PROCESSOR, PS	GCT-3041-2	86151	2	1500.00	3000.00
4104	MOTOR	SPEC 09A02W20	05472	1	1000.00	1000.00

163,144.30

Material Requirements List for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
W105	VALVE, 2 WAY	3-06-2-110-VAC		4	$ 247.50	$ 990.00
W106	HEAT EXCHANGER	A025		1	1000.00	1000.00
W107	VALVE, 2-WAY	1/4 HP, 208VAC, 3 PH, 60CY 4WE10D4, 1/H/5	27005	4	364.50	1458.00
W108	GENERATOR FUNCTION	FG503	80009	1	1430.00	1430.00
W109	VALVE, 3-WAY	3WE10B4.1/N/5	27005	1	619.00	619.00
W110	MANIFOLD	KT-3357-11	25573	1	1455.00	1455.00
W111	RESERVOIR, 40 GAL BASE & COVER	KT-3357-10	25573	1	3830.00	3830.00
W112	VALVE, 2-WAY	105-110 VAC	70898	2	300.00	600.00
W113	ANNUNCIATOR	104-384005-1	50508	1	900.00	900.00
W114	GENISCO CCA	GCT-3091	55026	2	1163.00	2326.00
W115	AC VOLTMETER	2153 0-150	50508	12	100.75	1209.00
W116	CKT CD ASSY, SEL I/O	CD0750-2 REV D2	50508	2	4525.00	9050.00
W117	MONITOR CONTROL	CD01640-3-1 REV D8	50508	2	2396.00	4792.00
W118	CKT CD ASSY, GTC3038, CVG	CD01820-18-4 REV A2	50508	2	2716.00	5432.00
W119	CKT CD ASSY, MEMORY	CD01000-2-2 REV L2	50508	4	3000.00	12000.00
W120	PROCESSOR CHASSIS	GCT 3000	50508	1	9000.00	9000.00
		CONSUMABLES				
W121	FUSE, CARTRIDGE	MDA10	71400	60	7.75	465.00
W122	FUSE, CARTRIDGE	MDL1-1/4	71400	60	7.75	465.00
W123	LOAD CELL	JP-500	AAAB	7	1033.00	7231.00
W124	KIT, DIODE	SD-M	AAAAC	1	461.00	461.00
W125	KIT, DIODE	DR-M	AAAAC	1	461.00	461.00
W126	KIT, CAPACITOR	TD1-M	AAAAC	1	460.00	460.00
W127	KIT, CAPACITOR	TD2-M	AAAAC	1	460.00	460.00
W128	KIT, CAPACITOR	PD-M	AAAAC	1	460.00	460.00
W129	KIT, CAPACITOR	DP-M	AAAAC	1	460.00	460.00
W130	KIT, CAPACITOR	CD-M	AAAAC	1	449.00	449.00
W131	KIT, CAPACITOR	YM-M	AAAAC	1	449.00	449.00
W132	KIT, CAPACITOR	PMG-M	AAAAC	1	449.00	449.00
W133	KIT, CAPACITOR	M1-M	AAAAC	1	449.00	449.00
W134	KIT, RESISTOR	RM25-M	AAAAC	1	449.00	449.00
W135	KIT, RESISTOR	RM50-M	AAAAC	1	449.00	449.00
W136	FUSE, CARTRIDGE	MDL1-1/2	71400	100	4.97	497.00
W137	FUSE, CARTRIDGE	MDL2	71400	60	7.75	465.00

70 670.00

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
W138	FUSE, CARTRIDGE	MDL2.5	71400	60	$ 7.50	$ 450.00
W139	FUSE, CARTRIDGE	MDL8	71400	60	7.50	450.00
W140	FUSE, CARTRIDGE	MDX2-1/2	71400	60	7.80	468.00
W141	FUSE, CARTRIDGE	MDX5	71400	60	7.50	450.00
W142	FUSE, CARTRIDGE	MDX7	71400	60	7.60	456.00
W143	LIGHT, POST	A8970C-2-327	72914	14	59.00	826.00
W144	LIGHT	104-384028-1	70898	2	247.50	495.00
W145	LIGHT	104-384029-1	70898	2	240.00	480.00
W146	LAMP	2185D	71744	14	30.00	420.00
W147	SWITCH	MS24523-26	96906	6	56.00	336.00
W148	SWITCH	MS24523-31	96906	6	54.25	325.50
W149	SWITCH	MS24524-23	96906	6	57.00	342.00
W150	SWITCH	MS35058-23	96906	6	51.00	306.00
W151	SWITCH	MS35058-26	96906	6	60.00	360.00
W152	SWITCH	MS35058-27	96906	6	60.00	360.00
W153	SWITCH	MS35058-31	96906	6	52.00	312.00
W154	SWITCH	MS35059-22	96906	6	49.00	294.00
W155	SWITCH	MS35059-23	96906	6	54.00	324.00
W156	SWITCH	MS24523-22	96906	6	56.00	336.00
W157	SWITCH	PA-2015	88557	12	54.50	654.00
W158	SWITCH	V3-1003	91929	14	44.50	623.00
W159	SWITCH	311SM703-T	91929	12	47.00	564.00
W160	SWITCH	311SM706-T	91929	12	48.00	576.00
W161	SWITCH	44D30-01-1-AJN	81073	12	73.50	882.00
W162	SWITCH, MODULE	6A54	91929	12	50.00	600.00
W163	SWITCH, PB	800T-B1D1	01121	12	57.00	684.00
W164	SWITCH, PB	800T-B6D2	01121	12	57.00	684.00
W165	ACTUATOR	JV-7	91929	12	46.00	552.00
W166	SWITCH	MS27407-4	96906	6	64.50	387.00
W167	SPEAKER	F8-2X	75234	7	107.00	749.00
W168	SPRING	77	18028	6	68.00	408.00
W169	SPRING	Le-026C-1	84830	6	70.00	420.00
W170	SPRING	LE-026C-3	84830	6	70.00	420.00
W171	SPRING	100942-J-0026-22	70898	6	67.00	402.00
W172	SPRING	74	18028	6	67.00	402.00
W173	BELT	DFAT272	29964	10	59.10	591.00
W174	CONTROL, HEAT	104-550019-5	70898	2	733.00	1466.00
W175	SENSOR	3001-78-16	14604	3	189.00	567.00
W176	WRENCH TORQUE	6026		1	593.00	593.00

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
W177	CLIP TEST	40082		1	$ 738.00	$738.00
W178	RELAY	W78CSX-3	94696	2	57.00	114.00
W179	CKT BREAKER	HS070S6032-1	57230	1	182.00	182.00
W180	CKT BREAKER	HS070S6032-3	57230	1	115.00	115.00
W181	CKT BREAKER	HS070S5032-9	57230	1	57.50	57.50
W182	CKT BREAKER	HS070S6032-10	57230	1	173.00	173.00
W183	CKT BREAKER	HS070S6032-11	57230	1	108.00	108.00
W184	CKT BREAKER	HS070S6032-12	57230	1	140.50	140.50
W185	CKT BREAKER	HS070S6032-13	57230	1	240.00	240.00
W186	CKT BREAKER	HS070S6032-14	57230	1	174.00	174.00
W187	CKT BREAKER	HS070S6032-15	57230	1	174.00	174.0
W188	INTEGRATED CKT	ES48TTL-74221	57230	24	21.00	504.00
W189	INTEGRATED CKT	ES48TTL-7432	57230	24	19.00	456.00
W190	INTEGRATED CKT	ES48TTL-7404	57230	60	8.00	480.00
W191	INTEGRATED CKT	ES48TTL-7440	57230	30	15.00	450.00
W192	INTEGRATED CKT	ES48TTL-7408	57230	30	15.00	450.00
W193	INTEGRATED CKT	ES48TTL-7430	57230	30	14.00	420.00
W194	INTEGRATED CKT	ES48TTL-7475	57230	30	15.00	450.00
W195	INTEGRATED CKT	ES48TTL-74116	57230	30	18.00	540.00
W196	INTEGRATED CKT	ES48TTL-74123	57230	50	9.50	475.00
W197	INTEGRATED CKT	ES48TTL-74157	57230	30	15.00	450.00
W198	INTEGRATED CKT	ES48TTL-7400	57230	1	22.05	22.05
W199	INTEGRATED CKT	ES48TTL-74S157	57230	1	29.50	29.50
W200	INTEGRATED CKT	ES48TTL-7402	57230	1	7.50	7.50
W201	INTEGRATED CKT	ES48TTL-7420	57230	1	21.75	21.75
W202	INTEGRATED CKT	ES48TTL-7486	57230	30	14.00	420.00
W203	INTEGRATED CKT	ES48TTL-74S00	57230	1	34.55	34.5'
W204	INTEGRATED CKT	ES48TTL-7437	57230	1	22.20	22.20
W205	INTEGRATED CKT	ES48TTL-7485	57230	1	24.90	24.90
W206	INTEGRATED CKT	N74S20F	18324	1	23.45	23.45
W207	INTEGRATED CKT	ES48TTL-74H11	57230	1	27.15	27.15
W208	INTEGRATED CKT	ES48TTL-74161	57230	1	24.90	24.90
W209	INTEGRATED CKT	ES48TTL-7410	57230	1	21.75	21.75
W210	INTEGRATED CKT	ES48TTL-74165	57230	30	16.50	495.00
W211	INTEGRATED CKT	ES48TTL-74121	57230	30	14.50	435.00

8,500.70

Material Requirements List
for CLIN 0003

Page 7 of 14

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRIC
W212	INTEGRATED CKT	ES48TTL-74175	57230	36	$ 13.50	$ 486.00
W213	INTEGRATED CKT	ES48TTL-7422	01295	1	23.85	23.85
W214	INTEGRATED CKT	ES48TTL-7425	01295	30	15.00	450.00
W215	INTEGRATED CKT	ES48TTL-74S163	01295	30	22.20	666.00
W216	INTEGRATED CKT	ES48TTL-8095	01295	30	17.00	510.00
W217	INTEGRATED CKT	ES48TTL-8096	27014	30	17.20	516.00
W218	INTEGRATED CKT	MJE1090	04713	1	8.69	8.69
W219	DECAL	104-41058-3	70898	1	40.80	40.80
W220	DECAL	104-524032-3	70898	1	47.30	47.30
W221	DECAL	104-530047-3	70898	1	45.40	45.40
W222	DECAL	104-530063-3	70898	1	41.80	41.80
W223	DECAL	104-550016-3	70898	1	40.80	40.80
W224	DECAL	104-550017-3	70898	1	40.80	40.80
W225	DECAL	104-560013-3	70898	1	40.40	40.40
W226	LOUVER	455	70898	1	150.50	150.50
W227	LOUVER	SL662	70898	1	80.25	80.25
W228	COVER	104-555012-53	70898	1	146.00	146.00
~~W229~~	~~SEAT~~	~~45-416433-31~~	~~70898~~	~~0~~	~~0~~	~~0~~
W230	CLAMP, CABLE	14240	70898	14	23.00	322.00
W231	SEAT, CABLE	37192	70898	7	200.00	1400.00
W232	KNOB	AN3220-3	88044	1	95.00	95.00
W233	KNOB	70-5-1G	70895	1	117.00	117.00
W234	ACTUATOR	45-364157-33	70898	1	328.50	328.50
W235	HANDLE ASSY	45-364230	70898	1	192.00	192.00
W236	HEAD SET- MIC	H-157/AIC	33160	7	200.00	1400.00
W237	BELL	156G-4-G1	19557	1	72.00	72.00
W238	RELAY	27E122	77342	3	150.00	450.00
W239	VALVE, SHUT-OFF	N1512	20621	3	138.00	414.00
W240	VALVE, SHUT-OFF	N1516	20627	2	264.50	529.00
W241	YOKE DEFLECTION	994043	08904	2	204.00	408.00
W242	GAGE	J4876, 0-200 PSI	20627	1	413.00	413.00
W243	GAGE, LEVEL	G620-10-A01	24346	1	444.00	444.00
W244	STRAINER	SU55SF24	16954	1	251.00	251.00
W245	COUPLING	G-1500, 5/8 bore	96432	1	335.00	335.00
W246	VALVE CHECK	S15A 1/5	27005	1	295.00	295.00

10,800.09

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
W247	VALVE, RELIEF	CS-06-F-40	23934	2	$ 224.00	$ 448.00
W248	FILTER	LP-025-B-P-016-N	94697	1	374.00	374.00
W249	VALVE, GATE	370-1	31995	2	240.00	480.00
W250	VALVE 2-WAY	4WEH16E20/6AW120.60N/5	27005	2	400.00	800.00
W251	GAGE	430, 0-2000 PSI	70462	1	537.00	537.00
W251A	SWITCH PRESSURE	A400V-S-1-12	12190	4	169.50	678.00
W252	VALVE, GAGE	370-3/4" NPT	31995	1	421.00	421.00
W253	COUPLER	VHC-12-12F	78357	2	218.00	436.00
W254	COUPLER	VHC-4-4F	78357	2	210.00	420.00
W255	HOSE, 28"	J4-HA08NJ-28	09505	1	421.00	421.00
W256	HOSE, 15"	J4-HA08X08NJ-15	09505	1	418.00	418.00
W257	CONTROL, FLOW	NS-400-S	09990	2	271.00	542.00
W258	VALVE, CHECK	CS-400-S	09990	2	278.50	557.00
W259	NIPPLE	VHN-12-12F	78357	2	217.00	434.00
W260	NIPPLE	VHN-4-4F	78357	2	35.00	70.00
W261	HOSE 76"	J4-HA08X08NJ-76	09505	1	449.00	449.00
W262	HOSE 26"	J4-HA08X08NJ-26	09505	1	419.00	419.00
W263	SWITCH DISCONNECT	THC 3400 AFC	93201	1	867.00	867.00
W264	STARTER	14FF32AA with Heaters	23826	1	449.00	449.00
W265	STARTER	14BF32AA with Heaters	23826	1	545.00	545.00
W266	LIGHT	A89700-1-327	72914	4	51.50	206.00
W267	LIGHT, FLOOD	A7015C	70898	2	240.00	480.00
W268	SWITCH	C1003	05402	2	114.25	228.50
W269	SWITCH	C2006	81640	2	117.00	234.00
W270	SWITCH ASSY	C-4100P3R-575	05402	2	58.00	116.00
W271	SWITCH	MS24523-21	96906	2	56.00	112.00
W272	SWITCH	MS24523-23	96906	2	56.00	112.00
W273	TRANSDUCER	30001-10K-0-500PSI-	10651	6	367.00	2202.00
W274	SWITCH, PB	800T-A2D2	01121	2	225.00	450.00
W275	SWITCH, PB	800H2A	01121	2	234.00	468.00
W276	LIGHT PILOT	800T-A10G	01121	6	137.00	822.00
W277	RELAY, CONTROL	700-N800-A1	01121	5	204.00	1020.00
W278	RELAY, TIME DELAY	700-NPT-A1	01121	1	565.00	565.00

16,780.50

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
W279	BLADDER	A105-252	72909	1	$ 807.00	$ 807.00
W280	BLADDER	A106-252	72909	1	1051.00	1051.00
W281	ELEMENT, FILTER	071-60175	94697	1	135.00	135.00
W282	ELEMENT, FILTER	970-P-110A	12190	7	99.00	693.00
W283	HOSE 68"	J4-HA08X08NJ-68	09505	1	445.00	445.00
W284	FLANGE	256-X-B2	12190	2	328.00	656.00
W285	FUSE	[illegible]-R-100	71400	10	49.00	490.00
W286	FLOW CONTROL	[illegible]G1-2/5	58114	1	531.00	531.00
W287	VENT AND FILTER	750	99381	1	452.00	452.00
W288	ACCUMULATOR	A105-200-5 GAL	26337	1	1971.00	1971.00
W289	ACCUMULATOR	A106-200-10 GAL	26337	1	2788.00	2788.00
W290	COUPLING	G-1500 7/8 bore	96432	1	489.00	489.00
W291	BELT DRIVE 60 HZ	102634-01	32097	1	85.00	85.00
W292	TENSION IDLER ASSY	109128-01	32097	1	104.00	104.00
W293	SPRING	102667-01	32097	1	423.00	423.00
W294	LAMP & LENS	103499-02	32097	1	276.00	276.00
W295	FILTER, AIR	614-0006	32097	2	61.50	123.00
W296	TRANSDUCER ASSY, UPPER & LOWER	102764-02	32097	1	326.00	326.00
W297	CAPACITOR	134-4792	32097	1	164.00	164.00
W298	CARTRIDGE DISC, D3422	904416-01	32097	2	9251.00	18502.00
W299	HEAD, LOWER	526-0008	32097	2	304.50	609.00
W300	HEAD, UPPER	526-0009	32097	2	304.50	609.00
W301	SENSOR RECEIVER ASSY	104514-04	32097	1	518.00	518.00
W302	MONITOR CONTROL PCBA	103571-01	32097	1	341.00	341.00
W303	PULLEY KIT, DRIVE MOTOR	103642-02	32097	1	126.00	126.00
W304	PHOTO SENSOR ASSY	102320-01	32097	1	150.00	150.00
W305	TENSION ARM SENSOR ASSY	100858-05	32097	1	154.00	154.00
W306	CAPSTAN	103353-01	32097	1	221.00	221.00
W307	TAKE UP REEL	516-0100	32097	1	162.00	162.00
W308	BELT, TIMING	610-0020	32097	1	115.00	115.00
W309	RELAY	502-1243	32097	5	70.00	350.00
W310	GEAR MOTOR ASSY	102258-01	32097	1	380.00	380.00
W311	SWITCH	506-6360	32097	2	114.50	229.00
~~W312~~	~~PAINT, TOUCH UP~~	~~1956358~~	~~57230~~	0	-0-	-0-
W313	BRAKE ACCUMULATOR	R2-20-05	14051	6	334.00	2004.00
W314	WANDS, CLEANING	623-0002	32097	1 pr	437.00	437.00
W315	TESTER, VOICE COIL POI	103607	32097	1	433.00	433.00

37,349.00

Material Requirements List for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
W316	TOOL, ADJUSTMENT	103619-01	32097	1	$ 925.00	$ 925.00
W317	EXTRACTOR, PIN	HT2285	27264	1	465.00	465.00
W318	OPTICAL ENCODER	S-9200	32097	1	1511.00	1511.00
W319	GAGE, SAVER	200-A0-00	12762	1	536.00	536.00
W320	COUNTER TIMER	635K	14907	1	425.00	425.00
W321	TOOL, ALIGNMENT	102382-01	32097	1	605.00	605.00
W322	TOOL, ALIGNMENT	104830-01	32097	1	452.00	452.00
W323	CARD, EXTENDER	HS070D4011-1	57230	2	857.50	1715.00
W324	SOLDERING STATION	PRC-151A	54111	1	2298.00	2298.00
W325	SOLDERING IRON	6903	78967	1	254.50	254.50
W326	HOLDER, SOLDERING IRON	6990	78976	1	245.50	245.50
W327	NIB, PRINCESS	6950	78976	1	39.25	39.25
W328	NIB, PRINCESS	6951	78976	1	39.25	39.25
W329	SOLDER IRON	776	78976	1	243.00	243.00
W330	HEATER	537	78976	1	241.50	241.50
W331	HEATER	4037-S	78976	1	246.50	246.50
W332	TIP, 1/4"	113	78976	1	41.25	41.25
W333	TOOL KIT	TC-150/ST	96508	2	732.00	1464.00
W334	WRENCHES, HEX KEY	13025	08292	1 set	234.00	234.00
W335	BALL DRIVER SET	2893800	31734	1 set	256.00	256.00
W336	GAUGE, FEELER	GS-1	65814	1	436.00	436.00
W337	BAR, PUNCH	C-82	65814	1	437.00	437.00
W338	HAMMER	HBP-2	65814	1	450.00	450.00
W339	HAMMER, HAND, SLEDGE	HSF-105	65814	1	436.00	~~436.00~~
W340	HAMMER, CLAW	HBP-3-0	65814	1	435.00	435.00
W341	KIT, FIELD, CRT	T-SHK-J-9204	20886	1	557.50	557.50
W342	KIT, DEPOT, CRT	T-DHK-K9204	20886	1	864.00	864.00
W343	KIT, PC, CRT	T-PCHK-L9204	20886	1	1500.00	1500.00
W344	HEX DRIVER	AA3B107	52346	1	469.00	469.00
W345	WRENCH, TORQUE 0-15	6016	6016	1	593.00	593.00
W346	GAUGE, SPRING TENSION	1375T11	39428	1	1199.00	1199.00
W347	GAUGE, 0-150 GRAM	1369T-3	39428	1	586.00	586.00
W348	STANDARD SOLDAPULLT	PT-109	91920	1	449.00	449.00
~~W349~~	~~MICRO T IPPED SOLDAPULLT~~	~~PT-209~~	~~91920~~	~~0~~	~~0~~	~~0~~
W350	TAPE, MEASURING 12'	AA195B210	52346	1	427.00	427.00

21,075.25

Material Requirements List
for CLIN 0003

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
~~W351~~	~~TAPE, MEASURING 50'~~	~~AA222B050~~	~~52346~~	0	$ 0	$ 0
W352	KIT, MAINT, CRT	T-THK-M9204	20886	1	353.00	353.00
~~W353~~	~~VACUUM CLEANER~~	~~B133-10W5888~~	~~57230~~	0	0	-0-
W354	DROPLIGHT (50 FT)	168-692W1765	57230	1	456.00	456.00
W355	SHIMS, .0005, COPPER	SHIM, .0005, COPPER	55844	1 pkg	171.00	171.00 –
W356	SHIMS, .005, MYLAR	SHIM, .005, MYLAR	55844	1 pkg	171.00	171.00 –
~~W357~~	~~KIT, MAINT, GD~~	~~THK-F-9508~~	~~20886~~	0	0	0
~~W358~~	~~CLIP TEST~~	~~40235~~	~~25677~~	0	0	0
W359	CLIP TEST	~~40202~~	~~25677~~	0	0	0
~~W360~~	~~DISKETTE~~	~~TE101~~	~~25677~~	0	0	-0-
W361	TEST STAND, IC	2031B	25677	1	4171.00	4171.00
~~W362~~	~~TESTER, DUAL DISK~~	~~3000A~~	~~25677~~	0	0	0
~~W363~~	~~CLIP TEST~~	~~40089~~	~~25677~~	0	0	0
~~W364~~	~~CLIP TEST~~	~~40234~~	~~25677~~	0	0	0
~~W365~~	~~CLIP TEST~~	~~40203~~	~~25677~~	0	0	-0-
~~W366~~	~~CLIP TEST~~	~~40209~~	~~25677~~	0	0	0
W367	LIGHT	LFM-2FE	15607	1	480.00	480.00
W368	SCREWDRIVER, OFFSET	30250	08292	1	225.00	225.00
W369	SCREWDRIVER, JEWELERS	580116	89750	1 set	232.00	232.00
~~W370~~	~~HACKSAW, HEAVY DUTY~~	~~169B156~~	~~52366~~	0	0	0
~~W371~~	~~KNIFE, UTILITY, POCKET~~	~~130B145~~	~~52366~~	0	0	-0-
W372	CKT BD FIXTURE	27100	71660	1	300.00	300.00
W373	OPTIONAL EXT ARMS	27101	71660	1	252.50	252.50
~~W374~~	~~SCISSORS, ELECT~~	~~14B467~~	~~52366~~	0	0	-0-
~~W375~~	~~SHIPS-DB-TINNER~~	~~4B335~~	~~52366~~	0	0	-0-
W376	WRENCHES IGNITION	35B254	52366	1 set	305.00	305.00
W377	PLIERS, VICE GRIP	131B115	52366	2	243.00	486.00
W378	STAND, SOLDERING IRON	46B195	52366	1	242.00	242.00
W379	MOTOR, DRILL 1/2"	MODEL 597	55111	1	580.00	580.00
W380	EXTENSION CORD, 100 FT	644	92194	2	178.75	357.50
W381	WIRE STRIPPER KIT	80B500	52366	1	239.00	239.00
W382	CIRCUIT TESTER	97B271	52366	1	489.00	489.00
W383	FUSE SET	14B096	52366	2	256.50	513.00
W384	ENGRAVER	223320	52366	1	464.00	464.00
W385	HEAT GUN	46B310	52366	1	371.50	371.50
W386	EXTRACTOR, IC	46B186	52366	1	430.00	430.00
W387	TECH WICK	416B007	52366	1	117.50	117.50 –
W388	VISE, BENCH	39B134	52366	1	459.00	459.00

11865.00

Material Requirements List

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
		ITEMS 0004				
X389	PROBE LOGIC	545A	28480	1	505.50	505.50
X390	VOLTMETER, DIGITAL	3466A	28480	2	1707.00	3414.00
X391	VOLTMETER, DIGITAL	245	51692	1	1176.00	1176.00
X392	VOLT-OHMMETER	260-6XLPM	55026	2	540.00	1080.00
X393	WRENCH, SUPERJUST	715 PROTO	65814	1	480.00	480.00
X394	WRENCH, SUPERJUST	714 PROTO	65814	2	238.00	476.00
X395	WRENCH, SUPERJUST	706 PROTO	65814	1	432.00	432.00
X396	WRENCH, END BOX	WS-1172AR	65814	1 set	768.00	768.00
X397	WRENCH SOC SET 1 3/8" drive	WSB-16	65814	1 set	545.00	545.00
X398	BAR, EXTENSION	B-110	65814	1	430.00	430.00
X399	BAR, EXTENSION	B-115	65814	1	431.00	431.00
X400	ADAPTER	BS-130	65814	1	423.00	423.00
X401	ADAPTER	BS-131	65814	1	427.00	427.00
X402	SOCKET, 1/2"	S-41A	65814	1	456.00	456.00
X403	ADAPTER	SH-130	65814	1	428.00	428.00
X404	WRENCH TORQUE	BTD-2-250	65814	1	595.00	595.00
X405	WRENCH TORQUE 2-18" PIPE	BTD-2-50F	65814	1	603.00	603.00
X406	WRENCH, CHAIN	CW-4	65814	1	454.00	454.00
X407	DRILL SET	TDS-29	65814	1 set	599.00	599.00
X408	TOOL BOX	TB6024	65814	1	652.00	652.00
X409	PLIERS, SLIP JOINT	PL-6	65814	1	430.00	430.00
X410	PLIERS, SLIP JOINT	PL-1522C	65814	1	449.00	449.00
X411	SCREW DRIVER, PHILLIPS	DPGS-4	65814	1 set	258.06	258.06
X412	SCREW DRIVER, SQ BLADE SET	DSGS-4	65814	1 set	265.50	265.50
X413	EXTRACTOR, SCREW	EXS-206	65814	1 set	452.54	452.54
X414	KIT CARD READER	FMK 9210-3	20886	3	1259.00	3777.00
X415	KIT CARD READER	DMKH9210-3	20886	3	7050.52	21151.56
X416	KIT CARD READER	PCMKJ9210-3	20886	3	3533.00	10599.00
X417	KIT CARD READER	TMKF9210-3	20886	3	553.00	1659.00
X418	T-BAR RUDDER	HSNPN	57230	1	587.00	587.00
~~X419~~	~~GENERATOR, CCTV TEST PATTERN~~	~~1210~~	~~27432~~	~~0~~	~~0~~	~~0~~
~~X420~~	~~GENERATOR, MULTIRATE SYNC.~~	~~1306~~	~~27432~~	~~0~~	~~0~~	~~0~~

54,003.16

Material Requirements List

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
		ITEMS 0004				
~~X421~~	~~GENERATOR, VIDEO SWEEP~~	~~VG-60B OR EQUIV.~~	~~23042~~	~~0~~	~~$ 0~~	~~$ 0~~
X422	MULTIMETER W/PROBE	8010A	89536	1	1489.00	1489.00
X423	BLADDER INSERTION ROD	600765	09837	1	550.00	550.00
X424	BRUSH RECORDER (2600)	2107-6606-00	96765	1	18015.00	18015.00
X425	REGULATOR	806-1135	00741	1	679.00	679.00
X426	GAUGE 0-1500	8410028	94080	1	460.00	460.00
X427	GAUGE 0-4000	8410093	94080	1	469.00	469.00
X428	HYDROTHERMOGRAPH	612X9-HT-00-00-7M-L	08987	1	1357.00	1357.
~~X429~~	~~ANALYZER~~	~~Myriad XK Model 440~~	~~None*~~	~~0~~	~~0~~	~~0~~
~~X430~~	~~PURIFICATION FLUID SYSTEM~~	~~ADA35288GZ5N~~	~~Paul Lad & Marine~~	~~0~~	~~0~~	~~0~~
X431	GAUGE, SNUBBER	150-A0-00	12762	1	258.00	258.00
X432	GAUGE, FORCE	L-30	80545	1	1022.00	1022.00
X433	FILTER BUGGY PORT	BFB-2K10-1.5	08332	1	2159.00	2159.00
~~X434~~	~~CUTTING TOOL~~	~~274-FC~~	~~53237~~	~~0~~	~~0~~	~~0~~
~~X435~~	~~BENDING TOOL~~	~~368=FH=1/4~~	~~53237~~	~~0~~	~~0~~	~~0~~
~~X436~~	~~BENDING TOOL~~	~~368=FH=5/16~~	~~53237~~	~~0~~	~~0~~	~~0~~
~~X437~~	~~BENDING TOOL~~	~~368=FH=3/8~~	~~53237~~	~~0~~	~~0~~	~~0~~
~~X438~~	~~FLARING TOOL~~	~~376=37~~	~~53237~~	~~0~~	~~0~~	~~0~~
~~X439~~	~~FLARING TOOL~~	~~180LF~~	~~23338~~	~~0~~	~~0~~	~~0~~
X440	ADJ SPANNER WRENCH	34-363	57230	1	451.00	451.00
X441	1-1/4 WRENCH	25-240	57230	1	460.00	460.00
X442	1-1/2 WRENCH	25-248	57230	1	484.00	484.00
X443	1-5/8 WRENCH	25-252	57230	1	480.00	480.00
X444	SAW HORSE, MOTION BASE	HS112D0201-1	57230	1	2043.00	2043.0
X445	CABLE ASSY	HS070D4255-084	57230	1	874.00	874.
X446	INTEG. CKT	ES48TTL-7406	57230	20	22.20	444.00
X447	EXTRACTOR	5071-3	89020	1	475.00	475.00
X448	INSTALLING TOOL	MS24256A20	96906	1	450.00	450.00
X449	INSTALLING TOOL	305183	00779	1	431.00	431.00
X450	CRIMPING TOOL	59250	00779	1	748.00	748.00

33,798.00

Material Requirements List

ITEM NO.	NOMENCLATURE	PART NUMBER	FSCM	QTY	UNIT PRICE	TOTAL PRICE
X451	CRIMPING TOOL	59239-4	00779	1	$ 737.00	$ 737.00
X452	CRIMPING TOOL	90277-1	00779	1	598.00	598.00
X453	CRIMPING TOOL	MS3191-2	96906	1	729.00	729.00
X454	POSITIONER	MS3191-16A	96906	1	446.00	446.00
X455	POSITIONER	MS3191-16B	96906	1	714.00	714.00
X456	POSITIONER	MS3191-20A	96906	1	720.00	720.00
X457	POSITIONER	MS3191-20B	96906	1	454.00	454.00
X457	CRIMPING TOOL	06-7858-01	91662	1	519.00	519.00
X458	CRIMPING TOOL	06-7852-01	91662	1	519.00	519.00
X459	WILBER WHEEL	HS112D1744	57230	1	683.00	683.00
X460	HOSE, NITROGEN*	A768-206	57230	1	1035.00	1035.00
X461	LOW LEVEL SWITCH	LS-1800-1801	04034	4	147.50	590.00

*HYTRONIX INDUSTRIES

7744.00

Appendix D.--Additional Statements for the Record.

national
easter seal society
60 YEARS OF SERVICE TO HANDICAPPED PEOPLE

Office of Governmental Affairs

October 21, 1983

The Honorable Berkley Bedell, Chairman
Subcommittee on General Oversight
and the Economy
Committee on Small Business
Room B-363, Rayburn
House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

I am writing to express the support of the National Easter Seal Society for the statement of Mr. John H. Leslie, Jr., Chairman of the Board of Directors of the National Industries for the Severely Handicapped, regarding H.R. 2133, a bill to amend the Small Business Act. The statement was submitted to your Subcommittee on October 5, 1983.

As you know, a provision contained in H.R. 2133 (lines 12 through 19 on page 5) could preclude work centers employing people with severe disabilities from participating in the Government's contracting out program. In effect, this provision endangers the employment opportunities established for people with severe disabilities under the Javits-Wagner-O'Day Act.

The National Society is committed to the programs authorized under the Javits-Wagner-O'Day Act. As an advocate for people with disabilities, the National Society values the opportunities provided by the Act which enable individuals with severe disabilities to improve their quality of life. We believe that this federal procurement program represents one of the most effective means of providing meaningful employment to blind persons and persons with other severe disabilities.

Therefore, we are much encouraged by the Subcommittee's decision to revise H.R. 2133 so that work center programs under the Javits-Wagner-O'Day Act will not be affected by these Small Business Act amendments. The National Society supports the change and commends members of the Subcommittee for this action.

Sincerely,

Randall L. Rutta

Randall L. Rutta
Policy Associate

RLR:cg
cc: Rep. Parren J. Mitchell, Chairman
Small Business Subcommittee
Eivind H. Johansen, NISH

1435 G STREET, N.W. • SUITE 1032 • WASHINGTON, D.C. 20005 • (202) 347-3066

United Cerebral Palsy Associations, Inc.
Governmental Activities Office
Chester Arthur Building, Suite 141
425 I Street N.W.
Washington, D.C. 20001

(202) 842-1266

October 20, 1983

Representative Berkley Bedell, Chairman
Subcommittee on Oversight and the Economy
Room B-363 Rayburn House Office Building
Washington, D.C. 29510

Dear Representative Bedell:

I am writing in behalf of United Cerebral Palsy Associations, Inc. concerning H.R. 2133, a bill which would amend the Small Business Act. It is my understanding that your Subcommittee recently held hearings on this legislation and that you are still accepting statements for the record concerning H.R. 2133. I would like to respectfully request that this correspondence become a part of the hearing record.

During the hearings which were held on H.R. 2133, the Subcommittee received testimony from Dr. John Leslie, Chairman of the Board of Directors of the National Industries for the Severely Handicapped (NISH). UCPA, Inc. is an original member of NISH and therefore we wish to reiterate Dr. Leslie's concerns. The portion of the bill which we are concerned about appears on page 5, lines 12 to 19. This section of H.R. 2133 pertains to the government's conversion to contract of commerical activities which are not being presently performed by a private commerical source. Although unintentional, this section in its current form would preclude Work Centers who employ severely disabled persons from participating in the government's "contracting out" program.

As Dr. Leslie has correctly pointed out, this section of H.R. 2133 is contrary to the policies and procedures which have been established through the Javits-Wagner-O'Day program. By enabling Work Centers to obtain government contracts, the JWOD program has been an effective means of providing employment and training opportunities to many severely disabled persons. Perhaps the most important aspect of the JWOD program is the provision which allows Work Centers to receive service contacts which enable disabled persons to receive on-the-job-training. For example, many of these contracts provide janitorial services to government-owned and operated buildings. Providing these services gives many severely disabled adults the opportunity to become part of the everyday working world. Such experience fosters self-worth and may enable these persons to move toward competitive employment. Through these contracts earnings are also increased. In FY 1980, there were approximately 1,400 severely handicapped people who were employed through JWOD service contracts. In FY 1983, there were approximately 3,150

LEONARD H. GOLDENSON CHAIRMAN OF THE BOARD
JACK HAUSMAN VICE CHAIRMAN
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HOWARD C. MILLER, JR. VICE CHAIRMAN
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WILLIAM BERENBERG, M.D. VICE PRESIDENT MEDICAL AFFAIRS
EARL H. CUNERD EXECUTIVE DIRECTOR

persons employed through service contracts, with average earnings of $3.78 per hour. Thus, these JWOD service contracts offer persons with disabilities the opportunity to substantially increase their earnings as well as a chance to interact with persons in a regular work environment. While we have cited figures which illustrate the value of these contracts in monetary terms, their human value may be of even greater importance. UCPA believes in providing persons with disabilities a continuum of employment opportunities and encouraging persons to move along that continuum. As persons with developmental disabilities become employed through programs like JWOD service contracts, they begin to have a new understanding of themselves and their ability to function in the real world. This new self-confidence often leads to greater independence and self-worth.

We are certain that the authors of H.R. 2133 did not intend to preclude Work Centers from receiving federal contracts which may araise as a result of the enactment of this legislation. Further, it is our understanding that you have already been advised of this problem and have agreed to the language which has been proposed by NISH. We are hopeful that the language which has been recommended by NISH will be acceptable to all parties involved.

Thank you for your assistance in this matter. Please let us know if we can be of any further assistance.

Sincerely,

Kathleen M. Roy

Kathleen M. Roy
Policy Associate

KMR/rlk

ACEC File #315
728.10
700.01

american
consulting engineers
council

UNITED STATES MEMBER

1015 FIFTEENTH STREET, N.W., WASHINGTON, D.C. 20005-2670 ☐ (202) 347-7474
Telex: 897445 AMCONENGRC WSH

October 18, 1983

The Honorable Berkley Bedell
Chairman
Subcommittee on General Oversight & the
Economy
Committee on Small Business
B-363 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Bedell:

The American Consulting Engineers Council (ACEC) is pleased to provide these comments on H.R. 2133 for the Hearing Record.

Background

As a nationwide federation of almost 4,000 independent engineering firms, ACEC represents more than 120,000 professional, technical and support persons. These firms range in size from sole proprietorships to multi-branch corporations. However, a very large majority are small business. Fields of practice include civil, electrical, mechanical, structural and geotechnical engineering, with projects ranging from acoustics to water pollution abatement.

ACEC acknowledges the intent of the authors of H.R. 2133 to provide greater federal procurement opportunities for small and small disadvantaged firms. It is logical to assume that opening up the procurement process to enable more businesses--in this instance, small businesses in particular--to respond to contract solicitations will serve to sharpen competition.

While ACEC agrees in principle with this intent, we believe that guidance of this sort should be provided through procurement regulations and not be imposed statutorily.

Section 4(a)

ACEC believes that a federal commitment must be made to maintain a fair and reasonable level of set-asides for small and

President SHELBY K. WILLIS Salina, Kansas • *Senior Vice President* VERNON B. SPALDING, Madison Heights, Michigan
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CHRISTOPHER MARX New Haven, Connecticut • LESTER H. POGGEMEYER Bowling Green, Ohio • RICHARD L. WILLIAMS Roanoke, Virginia
Treasurer ARNOLD L. WINDMAN New York, New York • *President-Elect* CLIFFORD E. EVANSON Glencoe, Illinois
Executive Vice President LARRY N. SPILLER • *Managing Director* BRUCE E. VOGELSINGER

small disadvantaged businesses in all classes and types of procurement, with the balance of procurement subject to free and open competition.

The unique character of A-E practice--insofar as the ability of even a small firm to complete a major project--coupled with the current Small Business Administration's size standard qualifying 97 percent of the A-E industry as "small", has resulted in the A-E profession being subjected to the "rule of two" as specified in Section 4(a) for several years, with questionable benefits for both the procuring agency and the A-E profession.

As mandated by Public Law 92-582 (the Brooks law), copy attached, the primary responsibility of public officials entrusted with facilities development is to obtain design and engineering excellence through selection of the most qualified A/E firm at fair and reasonable prices. The procurement procedures for professional A/E services currently in use by the federal government are structured to achieve this goal.

The importance of quality design is emphasized by the fact that the caliber of the A/E services which are normally one percent of a facility's life-cycle cost controls the other 99 percent of initial construction and ongoing operation and maintenance costs of the facility. Statutorily inhibiting the contracting officer's ability to match the most qualified A/E firm with the project by requiring that officer to accommodate such outside factors as size of firm, subcontracting potential and firms located in labor surplus areas, as required in Section 4, serves to compromise the statutory intent of P.L. 92-582.

Fair and reasonable levels of set-asides are often difficult for federal agencies to maintain, particularly for industries, including the architect-engineer profession, which are considered "procurement sensitive". These industries bear a disproportionate share of system-wide small business utilization objectives in agencies--such as the Department of Defense--thereby allowing contracting authorities to avoid significant small business utilization in other areas where large procurements are most convenient or desirable to agency procurement personnel.

For procurement sensitive industries such as ours, the "rule of two" has enabled the Department of Defense to institute a policy of setting aside virtually all architect-engineer contract opportunities for small business. Coupled with the current A-E size standard, the Defense Acquisition Regulation set-aside policy (the "rule of two") ensures preferential procurement treatment not for truly small and minority A-E firms, but rather for firms lying just under the size standard threshhold. Such firms (ranging in size from about 75 to 175 employees) are better resourced (in staffing, equipment and capital) than the smaller firms, and are insulated from competition of larger firms who are currently "frozen out" of the competitive process.

The virtual exclusion of both the smallest and the largest A/E firms is a double tragedy for the truly small A/E firm; not only is it unable to compete for prime contracts, but under current policy, it is denied potential subcontracting opportunities afforded by the largest firms. Therefore, such firms lose significant financial opportunities and the equally important technical and managerial training associated with subcontracting opportunities with well-established design practices.

Section 4(e)

For the A/E profession, Section 4(e) amending Section 15(j)(2) of the Small Business Act to require that all contracts of $25,000 to $2,000,000 be set aside for either small business or an 8(a) award would, in effect, set-aside virtually all federal agency A/E contracts for firms qualifying as A/E small business concerns.

While ACEC considers a small business set side threshhold based on contract dollar awards to be more realistic and reasonable than the current threshhold based on firm size, a $2,000,000 contract threshhold for procuring A/E services is unrealistic.

Based on FY1982 statistics for architectural and engineering awards by the Department of Defense, allowing open competition for A/E contracts in excess of $85,000, while automatically setting aside contracts under $85,000 for small A-E firms would have resulted in 65 percent of A/E contract actions and 28 percent of contract dollars being awarded to small A-E firms. If the small business set aside threshhold had been $125,000, 39 percent of contract dollars and 73 percent of contract actions would have been awarded to small business.

ACEC strongly suggests that the Committee recognize the inherent difficulties in assigning a contract dollar threshhold level encompassing both the production of goods and the provision of services by amending Section 4(e) of the bill to required fair and reasonable contract dollar threshholds based on the characteristics of each industry.

Procurement Statistics

To further improve procurement statistics for small and small disadvantaged firms, ACEC recommends that the Federal Procurement Data System be expanded to record volume of work performed by small business under subcontract and to specifically delineate contract awards to minority- and women-owned firms. Accurate procurement statistics will assist each agency and SBA to s negotiate realistic annual procurement goals for prime contracts and subcontracting opportunities for small and minority/women-owned business concerns.

ACEC also recommends that the FPDS statistics, which are cited by SBA and other procuring agencies, be thoroughly reviewed to assure that they accurately reflect small business utilization. A recent review of FPDS A/E utilization statistics for the Department of Defense revealed that FPDS data included "A-E services" performed by non-A-E contractors such as Rockwell International, Raytheon, Sperry, and Texas Instruments, and included such services as design associated with nuclear-powered aircraft carriers and submarines. Needless to say, such companies are not typically considered to be independent, professional design practitioners, nor are such services normally completed by independent architects or consulting engineers.

Significantly, these statistics also show substantial amounts of "architect-engineer" work performed under "status of forces agreements" by foreign governments, state and local government agencies and not-for-profit institutions.

Conclusion

While ACEC cannot support H.R. 2133, as written, we do believe that efforts must continue to be made to ensure that the federal procurement process provide truly small and small disadvantaged businesses with the opportunity to participate while, at the same time, providing agency procurement officials flexibility in determining the most appropriate level of competition is met to assure optimum quality in goods and services procured.

Thank you for this opportunity to provide our views regarding H.R. 2133. Please do not hesitate to contact us if we can be of assistance to you regarding these or other small business issues of mutual concern.

Sincerely,

William J. Birkhofer

William J. Birkhofer
Managing Director
Governmental and
International Services

WJB/jr

Public Law 92-582
92nd Congress, H. R. 12807
October 27, 1972

An Act

To amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by adding at the end thereof the following new title:

Architects and engineers. Federal selection policy, establishment. 63 Stat. 377; 82 Stat. 1104.

"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

"DEFINITIONS

"Sec. 901. As used in this title—

"(1) The term 'firm' means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

"(2) The term 'agency head' means the Secretary, Administrator, or head of a department, agency, or bureau of the Federal Government.

"(3) The term 'architectural and engineering services' includes those professional services of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

86 STAT. 1278
86 STAT. 1279

"POLICY

"Sec. 902. The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

"REQUESTS FOR DATA ON ARCHITECTURAL AND ENGINEERING SERVICES

"Sec. 903. In the procurement of architectural and engineering services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required.

86 STAT. 1279

"NEGOTIATION OF CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

"Sec. 904. (a) The agency head shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof.

"(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm.

"(c) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached."

Approved October 27, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-1188 (Comm. on Government Operations).
SENATE REPORT No. 92-1219 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 118 (1972):
    July 26, considered and passed House.
    Oct. 14, considered and passed Senate.